

Swell Credit Account Terms and Conditions

IMPORTANT: SECTION 39 OF THESE SWELL CREDIT ACCOUNT TERMS AND CONDITIONS CONTAINS AN ARBITRATION AGREEMENT WHICH IMPACTS YOUR RIGHTS IN THE EVENT OF A DISPUTE INVOLVING YOUR SWELL CREDIT ACCOUNT. YOU MAY OPT OUT OF ARBITRATION AS DESCRIBED IN SECTION 39 OF THESE SWELL CREDIT ACCOUNT TERMS AND CONDITIONS. PLEASE REVIEW CAREFULLY THE ARBITRATION AGREEMENT.

FOR ACCOUNTS OPENED ON OR AFTER MARCH 1, 2023: AS SET FORTH IN SECTION 19, BEGINNING WITH THE SECOND BILLING CYCLE FOLLOWING ACCOUNT OPENING AND FOR SO LONG AS YOUR ACCOUNT REMAINS OPEN, YOU ARE REQUIRED TO RECEIVE DEPOSITS TO YOUR SWELL CASH ACCOUNT (INCLUDING, WITHOUT LIMITATION, DIRECT DEPOSITS OF INCOME AND ACH DEPOSITS) TOTALING AT LEAST \$500.00 DURING EACH BILLING CYCLE. IF YOU FAIL TO RECEIVE DEPOSITS TO YOUR SWELL CASH ACCOUNT TOTALING AT LEAST \$500.00 DURING A BILLING CYCLE, THE PENALTY APR MAY APPLY AS EXPLAINED IN SECTION 19 BELOW.

In order to open, access, and use the Swell Credit Account, you must download the Swell mobile application (the “*Swell Mobile App*”) on your mobile device and agree to the SwellMoney.com Website and Swell Mobile Application Terms and Conditions www.swellmoney.com/terms-and-conditions (the “*Swell Terms and Conditions*”). You should carefully review the Swell Terms and Conditions before accessing and using the SwellMoney.com website (the “*Swell Website*”) or downloading and using the Mobile App. Your use of the Swell Mobile App and the Swell Website are subject to and governed by the Swell Terms and Conditions as in effect from time to time. SWELL FINANCIAL, INC. REQUIRES ALL USERS AND VIEWERS OF THE SWELL MOBILE APP AND SWELL WEBSITE TO AGREE TO AND BE BOUND BY THE SWELL TERMS AND CONDITIONS AS A CONDITION TO ACCESSING AND USING THE SWELL WEBSITE AND THE SWELL MOBILE APP. PLEASE ALSO CAREFULLY REVIEW THE SWELL TERMS AND CONDITIONS AND THE SWELL PRIVACY POLICY ON THE SWELL WEBSITE, WWW.SWELLMONEY.COM/PRIVACY, WHICH GOVERNS SWELL’S TREATMENT OF YOUR INFORMATION THAT YOU SUBMIT VIA THE SWELL WEBSITE AND THE SWELL MOBILE APP). IF YOU DO NOT WISH TO AGREE TO AND BE BOUND BY THE SWELL TERMS AND CONDITIONS, YOU SHOULD IMMEDIATELY DISCONTINUE USING AND ACCESSING THE SWELL WEBSITE AND THE SWELL MOBILE APP AND DELETE THE MOBILE APP FROM YOUR PERSONAL DEVICE(S).

The Swell Credit Account Terms and Conditions (the “*Swell Credit Agreement*” or this “*Agreement*”), is the contract between you and Central Pacific Bank regarding your Swell Credit Account. This Agreement includes these Swell Credit Account Terms and Conditions (as updated from time to time, as permitted hereby), together with the Swell Credit Account Opening Disclosures and Acknowledgement (the “*Account Opening Disclosures*”) you signed as part of the Account opening process. By opening and using your Account, you accept the terms and conditions as set forth in this Agreement and assume responsibility to repay all credit extended through the use of the Account as well as all fees and charges imposed on or in connection with the Account.

Definitions:

Unless the context indicates otherwise, in this Agreement the following definitions apply in addition to other definitions within the text:

- “You,” “your,” and “Borrower” mean the individual consumer who is opening the Account with us.

- “*Bank*,” “*CPB*,” “*we*,” “*our*,” and “*us*” refer to Central Pacific Bank, a Hawaii banking corporation and member of Federal Deposit Insurance Corporation, and our affiliates, successors, and assigns.
- When used to identify a party providing services, “*Swell*” refers to Swell Financial, Inc., the party that manages the Swell Credit Account program and provides services to CPB related to Swell Credit Accounts.
- “*Application*” means the application you submitted to us via the Swell Mobile App to apply and be considered for a Swell Credit Account.
- “*Swell Credit Account*” and “*Account*” refer to the open-end revolving line of credit account you open with us under the terms and conditions set forth in this Agreement.
- “*Swell Cash Account*” and “*Cash Account*” refer to the checkless deposit account that you have applied for and opened with CPB.
- References to “*day*” in this Swell Credit Agreement are to calendar days unless indicated otherwise.
- A “*business day*” is Monday through Friday, excluding federal and Hawaii state holidays even if we are open for business.
- “*Bank Notice Address*” means Central Pacific Bank, c/o Swell Member Services, Attention: Legal Notices, P.O. Box 371680, PMB 38519, Denver, CO 80237-5680.
- “*Borrower Notice Address*” means each of your U.S. postal service mailing address and your e-mail address, as each of the same may be updated from time to time in your Swell profile maintained within the Swell Mobile App.
- “*Dispute*” has a broad meaning and includes each and all claims and disagreements related directly or indirectly to, arising from, or associated with any and all of the following: (i) your application; (ii) the Swell Credit Agreement; (iii) the Swell Credit Account; (iv) your dealings with CPB; (v) your dealings with Swell; (vi) your dealings with any Related Party; (vii) any prior applications and agreements involving CPB and you; (viii) collections activities; (ix) payment processing activities and payment authorizations; (x) marketing and advertising activities; (xi) privacy and customer information matters; (xii) claims that usually would be resolved in court; (xiii) claims that relate to the validity, coverage, or scope of Section 39 or any part of Section 39; and (xiv) claims that you have with or involving one or more Related Parties. “*Dispute*” involves claims and disagreements from any time period, whether past, present or future, including events that occurred before the opening of the Account, based on any legal or equitable theory (tort, contract or otherwise), and regardless of the type of relief sought (*i.e.*, money, injunctive relief or declaratory relief).
- “*Related Party*” includes each of the following: (i) CPB’s affiliates; (ii) Swell and its affiliates; (iii) employees, directors, officers, shareholders, members, representatives, and service providers (e.g., collections companies, marketing service providers, underwriting service providers, account servicing companies, payment processors, consumer reporting agencies, debt buyers, participants, and assignees or other subsequent holders of the Account) of CPB, Swell, and any of their respective affiliates; (iv) any person or company involved in any way with your application, the Swell Credit Agreement, and the Swell Credit Account (including the origination, servicing, and collections thereof), including, without limitation, collections companies, marketing service providers, underwriting service providers, account servicing companies, payment processors, consumer reporting agencies, debt buyers, participants, and assignees or other subsequent holders of the Account, and employees, directors, officers,

shareholders, members, representatives of any such person or company; and (v) any person or company involved in a Dispute involving you and CPB or you and another Related Party.

Welcome to Your Swell Credit Account

1. General Information.

Your Account can be accessed as outlined in this Agreement. Your Account may only be used for personal, family, or household purposes. Your Account may not be used for illegal purposes, and it may not be used for internet gambling or marijuana purchases, even if legal. You are responsible for paying all amounts outstanding on your Account, including any fees and charges we impose.

2. Credit Limit. [This Section 2 applies only to Swell Credit Accounts opened before March 1, 2023.]

An approved line of credit in the amount stated in your Account Opening Disclosures (“*Credit Limit*”) is established for your Account once you have received qualifying direct deposits totaling \$500 or more in your Swell Cash Account with us within the period of time described below. A qualifying direct deposit is a direct deposit to your Cash Account from an employer, government agency, or other similar income source as determined by us (“*Qualifying Direct Deposit*”). Until we receive your first Qualifying Direct Deposit(s) totaling \$500 or more in a calendar month within the designated period of time (the “*Initial Deposit Calculation Period*”), your credit limit is the Initial Credit Limit amount stated in your Account Opening Disclosures (“*Initial Credit Limit*”). Once you qualify for your Credit Limit by receiving Qualifying Direct Deposits totaling \$500 within the Initial Deposit Calculation Period, your Credit Limit will be available to you provided you continue to receive \$500 in Qualifying Direct Deposits calculated daily on a rolling 40-day basis (the “*Periodic Deposit Calculation Period*”).

Important: The Initial Deposit Calculation Period begins on the date on which you open your Account and ends on the last day of the second calendar month following the month in which you open your Account. If you do not set up Qualifying Direct Deposit(s) totaling \$500 or more in a calendar month by the end of the Initial Deposit Calculation Period, your Initial Credit Limit will become your actual Credit Limit, notwithstanding what you may have been approved for at Account opening. For example, if you open your Account in April, and you do not have Qualifying Direct Deposit(s) of at least \$500 in May and at least \$500 in June, or at least \$500 in June, then as of July 1, your Initial Credit Limit will become your Credit Limit.

After the conclusion of the Initial Deposit Calculation Period, calculations of Qualifying Direct Deposit(s) will be performed daily over the Periodic Deposit Calculation Period to determine if you received a total of \$500 in Qualifying Direct Deposits during that period of time. We will use the transaction descriptions and our discretion to determine if a direct deposit is a Qualifying Direct Deposit. *If in a particular Periodic Deposit Calculation Period you did not receive \$500 in Qualifying Direct Deposits as determined by us, your Credit Limit will not change, but we reserve the right to freeze your ability to request Advances, as defined in Section 3 below. If we exercise our right to freeze Advances due to a lack of Qualifying Direct Deposits, we will monitor your direct deposits and will reinstate your ability to request Advances once you again start receiving at least \$500 in Qualifying Direct Deposits in a Periodic Deposit Calculation Period.*

Your Credit Limit (or Initial Credit Limit, if applicable) is the maximum principal amount of credit that you can have outstanding on your Account at any time. You agree not to make an Advance request that would cause your Account balance to exceed the Credit Limit (or Initial Credit Limit, if applicable). At our sole discretion, we may choose to approve or deny an Advance request that would cause the Account to exceed the Credit Limit (or Initial Credit Limit, if applicable). If the Account’s principal balance exceeds the Credit Limit (or Initial Credit Limit, if applicable) at any time you shall immediately pay us the excess amount, or at our discretion we may include the excess amount as part of your next minimum payment amount. We may increase or decrease the Credit Limit at any time, for any reason, as permitted by law.

2. Credit Limit. [This Section 2 applies only to Swell Credit Accounts opened on and after March 1, 2023.]

An approved line of credit in the amount stated in your Account Opening Disclosures (“*Credit Limit*”) is established for your Account at Account opening. Your Credit Limit is the maximum principal amount of credit that you can have outstanding on your Account at any time. You agree not to make an Advance request that would cause your Account balance to exceed the Credit Limit. At our sole discretion, we may choose to approve or deny an Advance request that would cause the Account to exceed the Credit Limit. If the Account’s principal balance exceeds the Credit Limit at any time you shall immediately pay us the excess amount, or at our discretion we may include the excess amount as part of your next minimum payment amount. We may increase or decrease the Credit Limit at any time, for any reason, as permitted by law.

Using Your Account

3. Advances and Balance Transfers.

Subject to the terms of this Agreement, we will make advances of funds to you upon your request (“*Advances*”). Advances include any amounts extended as Overdraft Advances (see *Section 14*, *Section 15*, and *Section 16*) and Balance Transfers (hereafter defined). You may request Advances by using the Swell Mobile App to request a transfer of funds to your Cash Account. From time to time, we may also permit you to obtain credit from us by requesting that Advance proceeds be paid to another creditor of yours (“*Balance Transfer*”) using one or more means provided by us. Requesting that funds be transferred to your Cash Account using the Swell Mobile App is the only way to receive an Advance other than Overdraft Advances (see Section 14, Section 15, and Section 16) and Balance Transfers.

Interest Charges

4. Interest.

We will charge interest on your Account using a daily periodic rate. The daily periodic rate is the applicable annual percentage rate divided by 365 (“*Daily Periodic Rate*”). The Daily Periodic Rate is multiplied against the outstanding daily principal balance to determine the daily accrued interest as explained in Section 5. Refer to the Account Opening Disclosures for the annual percentage rate(s) that apply to your Account.

For Accounts opened on and after March 1, 2023, a penalty annual percentage rate (“*Penalty APR*”) may apply in connection with certain events of default, as explained in Section 19. Refer to the Account Opening Disclosures for the Penalty APR that applies to your Account.

5. How We Will Calculate Your Balance and Interest Charge.

For each day in the billing cycle, we calculate your outstanding principal balance at the end of the day by adding to the existing outstanding principal balance any new Advances and deducting payments and credits to get the daily principal balance (the “*Daily Balance*”). The Daily Periodic Rate is then multiplied against the Daily Balance to determine the daily accrued interest. The daily accrued interest amount is then added to the outstanding principal balance, plus any other accrued fees and charges, to get the daily total account balance.

Making Payments

6. Promise to Pay and General Payment Instructions; Right of Setoff.

You agree to pay interest on the unpaid principal balance of your Account at the Daily Periodic Rate, together with fees and charges, and to pay the minimum payment due (“*Required Minimum Payment*”) on your Account, in accordance with this Agreement. You agree to pay us such amounts in the U.S. currency denominations. We will deliver a periodic billing statement to you as of the closing date of your billing cycle. Advances, payments and adjustments made since the closing date on your previous

periodic billing statement will appear on your next periodic billing statement. You may pay your entire Account balance at any time. Payment can be made from your Cash Account. Payment also can be made by debit card and ACH from an external bank account. You can authorize preauthorized recurring payments or individual payments as explained below under Making Payments in [Section 11](#).

In addition, you grant us a right of setoff in your Cash Account to secure all amounts you owe us under this Agreement. If your Required Minimum Payment is 15 or more days late, you authorize us to take the Required Minimum Payment from your Cash Account. This right of setoff does not apply to your Cash Account if prohibited by law. You agree to hold us harmless from any claim arising as a result of our exercise of our right of setoff.

7. Periodic Billing Statements.

We will deliver to you a periodic billing statement at least fourteen (14) days before your payment is due. The periodic billing statement will be delivered to you electronically via and accessible in the Swell Mobile App. The periodic billing statement will show your Account balance ("*New Balance*"), your Required Minimum Payment and other Account information. Unless you notify us of a billing error as provided below under Your Billing Rights, you accept your periodic billing statement as an accurate statement of your Account. For each billing cycle, you agree to make at least the Required Minimum Payment shown on your periodic billing statement by the indicated due date ("*Payment Due Date*"). If a Payment Due Date is scheduled for a Sunday, legal holiday, or any other date on which we are not open for business, then we will credit any payment received on our next business day as if it were received on the scheduled Payment Due Date. You may pay more frequently, pay the unpaid balance in whole or in part, or pay your New Balance in full at any time without a prepayment penalty. If you make extra payments or larger payments in any billing cycle, you will still be required to make at least the Required Minimum Payment each billing cycle, unless you have paid your entire New Balance in full. If you make only the Required Minimum Payment each billing cycle, you will pay more in interest and it will take longer to pay off your balance.

8. Required Minimum Payment. [This [Section 8](#) applies only to Swell Credit Accounts opened before March 1, 2023.]

If your New Balance is \$25.00 or more, your Required Minimum Payment will be an amount equal to the greater of (i) 2.00% of the outstanding principal balance of your Account plus accrued interest and any outstanding fees or charges and (ii) \$25.00. If your New Balance is less than \$25.00, your Required Minimum Payment will be your New Balance. Your Required Minimum Payment for a billing cycle may include any past due amounts from prior billing cycles and any amount outstanding under this Agreement in excess of your Credit Limit (or Initial Credit Limit, if applicable). If you fail to make your Required Minimum Payment for each billing cycle, we may suspend your ability to request Advances.

8. Required Minimum Payment. [This [Section 8](#) applies only to Swell Credit Accounts opened on and after March 1, 2023.]

If your New Balance is \$25.00 or more, your Required Minimum Payment will be an amount equal to the greater of (i) 1.50% of the outstanding principal balance of your Account plus accrued interest and any outstanding fees or charges and (ii) \$25.00. If your New Balance is less than \$25.00, your Required Minimum Payment will be your New Balance. Your Required Minimum Payment for a billing cycle may include any past due amounts from prior billing cycles and any amount outstanding under this Agreement in excess of your Credit Limit (or Initial Credit Limit, if applicable). If you fail to make your Required Minimum Payment for each billing cycle, we may suspend your ability to request Advances.

9. Paying Interest.

We will begin charging interest on Advances on the date funds are disbursed to you. There is no time period during which you can avoid paying interest.

10. Application of Payments.

Payments are applied in the following order: (i) past due interest, (ii) past due fees, (iii) past due principal, (iv) current interest due and billed, (v) current fees due and billed, (vi) current principal due and billed, (vii) current interest accrued and unbilled, and (viii) current principal unbilled.

11. Making Payments.

- **Payments using the Swell Mobile App.** Payments can be made from your Cash Account. When you schedule a payment from your Cash Account through the Swell Mobile App before the 11:59 p.m. ET in the Swell Mobile App, we consider the payment received by us on the date that the payment is scheduled.
- **Payments Initiated Outside of Swell.** Payment also may be made by debit card and, once functionality is added to the Swell Mobile App, by ACH from an external bank account. If you initiate a payment to us through another institution or third party we will not post the payment to your Account until we receive the funds associated with the payment.
- **Payment Reversals.** If a payment is reversed for any reason, you may be charged a late payment fee as described in [Section 18](#).
- **No Payments by Check.** We do not accept payments by paper check and reserve the right to destroy any personal checks or other unapproved payment instruments we receive.

How We Apply Your Payments

12. Posting Payments to Your Account.

As long as we receive your Required Minimum Payment due by our cut off times of 5 p.m. E.T. (11:59 p.m. E.T. for payments made from your Cash Account), you will not be charged a late payment fee. As long as your payment conforms to the requirements set forth on the periodic billing statement, we will credit your payment on the date it is received, even though there may be delays in posting the payment to your Account. We will adjust any interest accrual, if applicable, to the date the payment was received. For payments not made from the Cash Account, you may not be able to re-borrow the principal portion of the payment amount for up to 10 business days. This allows time to ensure your payment has been collected from the account from which it was drawn.

13. Irregular Payments.

We reserve the right not to accept checks and money orders or partial payments marked “payment in full.” If we accept such payments, we will not lose any rights under this Agreement.

Using Your Account as Overdraft Protection for your Cash Account

Note: Automated Swell Credit Overdraft protection functionality as described in [Section 14](#), [Section 15](#), and [Section 16](#) likely will not be available until after May 1, 2023. Until such time as automated Swell Credit Overdraft functionality (as described in the next three sections) is enabled, if you do not have sufficient funds in your Cash Account to cover a particular transaction, and your Account is in good standing with availability, you can request an Advance (the proceeds of which will be automatically transferred to your Cash Account) and use the proceeds of such Advance to cover the subject Cash Account transaction.

14. Swell Credit Overdraft Protection.

You may choose to enroll in Swell Credit Overdraft, a form of overdraft protection (“Swell Credit Overdraft”), from your linked Cash Account to this Account to cover eligible transactions in an amount up to \$100 (or such higher or lower amount as we determine from time to time in our discretion (the “Overdraft Advance Limit”). The person who accepts this Agreement and activates this Account as Borrower must also be identified as the owner of the Cash Account. You may enroll in Swell Credit

Overdraft in the Swell Mobile App. Once you enroll, Swell Credit Overdraft is available immediately. Swell Credit Overdraft applies only to the eligible transactions described in [Section 15](#). Swell Credit Overdraft is not available (x) if we have frozen your ability to request Advances, (y) if your available credit is \$0.00 or is otherwise less than the amount by which the eligible transaction would overdraw your Cash Account, or (z) if the amount of the transaction when added to the amount of Overdraft Advances outstanding at the time of such transaction would exceed the Overdraft Advance Limit.

15. Overdraft Advances.

Subject to the terms of this Agreement, we will make an overdraft advance to you if an eligible transaction posted to your Cash Account exceeds the amount of funds in your Cash Account that is available for withdrawal (“*Overdraft Advance*”). By enrolling in Swell Credit Overdraft in the Swell Mobile App, you request that these Overdraft Advances be made and agree that the amount of these Overdraft Advances be added to your Cash Account. The following transactions from your Cash Account are eligible for overdraft protection, and you agree that you are responsible for Overdraft Advances made by us to cover the following transactions: (i) debit card transactions (including PIN and signature transactions), (ii) pre-authorized ACH transactions (including transactions scheduled using Swell BillPay), (iii) cash withdrawals at ATMs, and (iv) fees assessed on your Cash Account. Overdraft Protection does not apply to other transactions. The amount of any Overdraft Advances will be added to your Account balance and will be covered by this Agreement as though you had requested the advance resulting in the Overdraft Advance. The Overdraft Advance for a particular transaction will equal the amount needed to cover the unpaid amount of such transaction (but subject to the limitations described in [Section 14](#)). We will deposit the Overdraft Advance in your Cash Account.

16. Cancelling Swell Credit Overdraft Protection.

You may cancel your enrollment in Swell Credit Overdraft at any time in the Swell Mobile App. We may cancel your Swell Credit Overdraft enrollment and stop making Overdraft Advances at any time.

17. Maintaining Your Cash Account; Refunds to Cash Account.

You agree to maintain your Cash Account according to the terms and conditions of that deposit account agreement, in accordance with all applicable laws and regulations, without fraud, and in such manner so as to not cause us to close your Cash Account. If you fail to properly maintain your Cash Account, or your Cash Account is closed for any reason, we may unlink your Cash Account, or close your Credit Account to new Advances and may cancel your Credit Account as described in this Agreement.

You also agree that any “cash” refund associated with your Credit Account to which you may become entitled will be delivered to you as a deposit to your Cash Account.

Fees

18. Fees.

You agree to pay the following fees, which we may assess against your Account:

- **Late Payment Fee.** If we do not receive at least the Required Minimum Payment within ten (10) days after the Payment Due Date, you agree to pay us a late payment fee in the amount disclosed in the Account Opening Disclosures.
- **Copy Fee.** A copy fee in the amount of \$10 for each paper copy of a periodic billing statement we provide at your request.

Events of Default; Periodic Deposit Requirements (for Accounts opened on and after March 1, 2023); Rights Following Default; Closing Your Account

19. Events of Default; Acceleration. [This Section 19 applies only to Accounts opened *before* March 1, 2023.]

You are in default on the Account if any of the following events occur: (a) you do not make at least the Required Minimum Payment when it is due; (b) you exceed your Credit Limit (or Initial Credit Limit, if applicable); (c) you provide us with false, misleading, or fraudulent information; (d) you fail to comply with any term of the Agreement; (e) you are bankrupt or insolvency proceedings are filed against you; (f) we believe you may be unwilling or unable to pay your debts on time; (g) you die or are legally declared incompetent or incapacitated; and (h) we become aware that you are using your Account for illegal or fraudulent purposes.

If you are in default, we can stop all Advances and/or declare the full unpaid balance on your Account immediately due and payable as permitted by law. We may also take any other collection action allowed by applicable law. If we need to hire an attorney to collect any part of your Account and applicable law permits us to charge you for attorneys' fees, you agree to pay us our reasonable attorneys' fees incurred in collecting your Account, subject to any limits under applicable law.

19. Periodic Deposit Requirements; Events of Default; Penalty APR; Acceleration. [This Section 19 applies only to Accounts opened *on and after* March 1, 2023.]

Beginning with the second billing cycle following Account opening, and for so long as your Account remains open, you are required to receive deposits to your Swell Cash Account including, without limitation, direct deposits of income and ACH deposits, totaling at least \$500.00 during each billing cycle.

You are in default on the Account if any of the following events occur: (a) you do not make at least the Required Minimum Payment when it is due and you fail to bring your Account current by the end of the billing cycle; (b) you exceed your Credit Limit and fail to bring the principal balance of your Account within the Credit Limit by the end of the billing cycle; (c) beginning with the second billing cycle following Account opening, you fail to receive deposits to your Swell Cash Account totaling at least \$500.00 during a billing cycle (including, without limitation, direct deposits of income and ACH deposits); (d) you provide us with false, misleading, or fraudulent information; (e) you fail to comply with any term of the Agreement; (f) you are bankrupt or insolvency proceedings are filed against you; (g) we believe you may be unwilling or unable to pay your debts on time; (h) you die or are legally declared incompetent or incapacitated; and (i) we become aware that you are using your Account for illegal or fraudulent purposes.

As permitted by and consistent with applicable law, beginning with the second billing cycle after you open your Account, the Penalty APR disclosed in your Account Opening Disclosures may be applied to your Account for any of the events of default shown in (a), (b), and (c) above. Your Account will be reviewed for the events of default shown in (a), (b), and (c) above each billing cycle as of the close of business on the last day of each billing cycle. If applicable, the Penalty APR will be applied to new Advances and existing principal balances. If required by applicable law, we will provide advance notice of the triggering event(s) of default and our intent to impose the Penalty APR. If you cure the triggering event(s) of default before the start of the billing cycle specified in such notice, then the Penalty APR will not be assessed for the designated billing cycle. If the Penalty APR is assessed for a designated billing cycle, the Penalty APR will apply for all days in such billing cycle and will continue for additional billing cycles if you do not timely cure the event(s) that caused the Penalty APR to apply (you bring your account current, you reduce your balance to below your credit limit, you make required deposits), or if one or more new events of default occur and you do not timely cure such defaults.

In addition to other rights following an event of default set forth in this Agreement, if you are in default, we can stop all Advances and/or declare the full unpaid balance on your Account immediately due and payable as permitted by law. We may also take any other collection action allowed by applicable law. If we need to hire an attorney to collect any part of your Account and applicable law permits us to charge you for attorneys' fees, you agree to pay us our reasonable attorneys' fees incurred in collecting your Account, subject to any limits under applicable law.

20. Freezing Advances; Account Cancellation.

If there is an outstanding balance on your Account, it may not be closed by you, however, you may close the Account to new Advances at any time by giving us written notice as provided in the Swell Mobile App. See [Section 21](#) regarding Stopping New Advances.

In addition to our other rights under this Agreement, we may freeze your ability to request Advances and/or stop honoring requests for Advances at any time. We also may cancel your Account at any time in our discretion. We expressly reserve our rights (a) to freeze your ability to request Advances and/or stop Advances, and (b) to cancel your Account, if you opt out of receiving electronic communications (*i.e.*, Periodic Billing Statements, transactional account emails) from us. In deciding whether or not to freeze Advances and/or cancel your Account, we may, but are not required, to make an annual (or more frequent) credit review on your Account.

The closing or cancellation of your Account for whatever reason (including, for example, your moving to a state in which we do not offer Accounts) will not affect obligations arising prior to such closing or cancellation and the terms of this Agreement will continue to apply until the unpaid balance due on your Account is paid in full.

21. Stopping New Advances.

You may request the Bank not to permit any additional Advances under the Account. We may continue to honor Advances until we have had reasonable time to act upon your request. You agree that we do not guarantee that every request for an Advance will be rejected after your request. You will hold us harmless from any claim by any party for ceasing to honor requests for Advances. You will resolve any such claims and will reimburse us for all expenses that we incur in defending any actions or claims brought against us, including reasonable attorneys' fee, whether or not a lawsuit is commenced, as permitted by law.

Communications, Notices and Information Updates

22. Telephone Monitoring.

From time to time, telephone calls between you and Swell Member Services may be monitored or recorded to assure the quality of the Swell Member Service specialists, or as required by applicable law. You consent to such monitoring and recording.

23. Communication via Phone, Email, Mail and Text Message.

You agree that CPB, its affiliates and their authorized representatives may contact you about your Application and your Swell Credit Account by any of the following methods: (i) calling you at any number you provide in your Application or at any time in your Swell Credit Account profile, including your cell phone, with an automatic telephone dialing system, artificial voice message, or pre-recorded message; (ii) leaving you messages on any voicemail or answering machine associated with such phone numbers; and (iii) writing to you, via U.S. postal service and/or electronic mail. To help prevent unintended access to your information by third parties, any phone number and email address you include on your application or in your Swell Credit Account profile should be personal to you (not a work phone or work email address) and not shared with or able to be accessed by anyone else. Please be mindful that any texts, calls, or emails we send may be accessed by anyone with access to your phone, texts or emails. Receipt of cellular phone calls may be subject to charges from your service provider. You may change your contact preferences at any time by updating your profile in the Swell Mobile App

or calling Swell Member Services at 1-855-808-5220. Changes to your contact preferences will not impact the review of your Application or alter the Swell Credit Account opening process.

You will receive text messages related to your Swell Credit Account only if you opt into receiving text messages. If you are receiving text messages from CPB or Swell (or any of their authorized representatives), you may withdraw your consent to receive text messages at any time. The best way to communicate your opt-out choice is by replying "STOP" or "STOP ALL" to any text message you receive. You also can change your text message preference by updating your profile in the Swell Mobile App, or by contacting Swell Member Services at 1-855-808-5220 or support@swellmoney.com. Important: If you change your cell phone number, you will need to inform us of that change and agree to a new text message consent in order to continue to receiving text messages regarding your Swell Credit Account.

24. Delivery of Notices to Notice Addresses.

You and your attorney must direct all legal notices, dispute notices, complaints, and notices of your bankruptcy (if any) to us at the Bank Notice Address, Central Pacific Bank, c/o Swell Member Services, Attention: Legal Notices, P.O. Box 371680, PMB 38519, Denver, CO 80237-5680. We will deliver periodic billing statements and other notices to you electronically via the Swell Mobile App and may also send such notices to your e-mail address. We may, from time to time, and as required by law, deliver statements and notices to you by mail to the Borrower Notice Address. Notices to you, if mailed, shall be deemed given when mailed to you at the Borrower Notice Address.

25. Notice and Opportunity to Cure.

CPB and you each agree that before suing or starting arbitration about (i) your Application, (ii) this Agreement, or (iii) the Credit Account, the party that desires to file a dispute (the "Claimant") first must do all of the following:

- The Claimant must tell all other parties (the "Defendant") of the dispute (the "Dispute Notice"). Each Dispute Notice must describe the nature of the claim and relief requested. Each Dispute Notice must be written and, except for collections letters from CPB (or CPB's authorized servicing representative) to you, must give at least 30 days to solve the dispute.
- The Claimant must mail Dispute Notices to the Bank Notice Address for CPB (Central Pacific Bank, c/o Swell Member Services, Attention: Legal Notices, P.O. Box 371680, PMB 38519, Denver, CO 80237-5680), and to You at the Borrower Notice Address. Dispute Notices to CPB must include the Account Number and your mailing address and phone number.
- If the Defendant asks for more information about the dispute, Claimant must give it.

26. Notice of Change in Name, Addresses, Employment, and Phone Numbers.

You agree to promptly notify us of any change in your name, employment, telephone numbers, and your Borrower Notice Address and residential address. You must provide notice to us of changes in the Borrower Notice Address or your residential address at least 10 days prior to the change in such address(es). We may, from time to time, check your address against change-of-address databases or web services and update our records and your profile any new address discovered through those means.

Credit Information

27. Periodic Billing Statement Disputes.

You agree to review promptly your periodic billing statements. If you believe there is an error, please contact us immediately at the number provided in the Swell Mobile App. If you believe your Account

has been compromised, you agree to contact us immediately by calling Swell Member Services at 1-855-808-5220.

28. Credit Reports/Inaccurate Information/Negative Information.

By accepting and agreeing to this Agreement, you understand and agree that we may review, and you expressly authorize us to review, your credit record from time to time in connection with your application and any resulting Account, our administration of your Account, any change in the interest rate or credit limit on your Account, or any update of the Account. As part of servicing, we will review your Account on a regular basis to determine if you are eligible for certain promotional offers related to your Account and you authorize us to do so. Upon your request, we will advise you if we obtained a credit report and we will give you the consumer reporting agencies' name and address. You understand that we provide information about this Account to consumer reporting agencies which may include negative information if you fail to fulfill the terms of your credit obligations under this Agreement. Late payments, missed payments, or other defaults on your account may be reflected in your credit report. If you believe information related to you or this Account reflected on your credit report is inaccurate, you may notify us of the same using the Contact Us feature within the Swell Mobile App or by writing to us at Swell Member Services, Attention: Credit Reporting, P.O. Box 371680, PMB 38519, Denver, CO 80237-5680.

General Provisions

29. Prohibited Activity.

It is your responsibility, and you agree to use the Account only for valid and lawful purposes. If you use the Account for any other purpose or transaction, including, without limitation unlawful gambling activity and marijuana purchases (collectively, herein called a "*Prohibited Activity*"), you must immediately reimburse us for all amounts or expenses incurred as a result of such use. We reserve the right to block Prohibited Activity and to cause non-approval of any authorization as a request of such use. You assume all responsibility and liability for all losses, costs and expenses you incur as a result of Prohibited Activity. If our investigation of any billing error asserted by you shows, in our sole determination, a Prohibited Activity, you authorize us to immediately reverse any provisional credit we gave you pending completion of our investigation.

30. Limitation on our Liability.

If a court or arbitrator finds we are liable in connection with this Agreement, you may recover only your actual damages. IN NO EVENT WILL YOU BE ABLE TO RECOVER ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, EVEN IF WE ARE AWARE OF OR HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

31. Disclosure of Account Information (Privacy Policies).

The CPB privacy policy and notice related to Swell Credit Accounts is available to be viewed on the Swell Website at www.swellmoney.com/central-pacific-bank-privacy. The Swell Privacy Policy and Notice is available to be viewed on the Swell Website at www.swellmoney.com/privacy.

32. Assignment.

We can assign, sell or transfer your Account, or any portion thereof and this Agreement without notice to you or your consent. You may not assign this Agreement, your Account or any portion of it. Your rights hereunder cannot be transferred by you or operation of law or otherwise without our consent, but your obligations shall be binding upon your estate or personal representatives. Any unauthorized transfer or assignment by you of this Agreement is null and void.

33. Amendments.

We, in our sole discretion, may change, amend or add to the terms and conditions of this Agreement by providing you written notice of the changes as may be required under applicable law. If the change is considered a significant change in account terms under Regulation Z, you will be given the right to reject the change, unless you become more than 60 days late on your Account. However, if you do

reject the changes, you will not be able to use your Account for new Advances. The notice provided prior to any such change will include instructions for how to reject the changes.

34. Governing Law; Usury Savings Clause.

CPB is a bank chartered by the State of Hawaii with its main office located in Honolulu, Hawaii. The Account, this Agreement, and your relationship with CPB involve interstate commerce. This Agreement is entered into between you and us in, is accepted by us in, and the Account is opened by us from the State of Hawaii, regardless of whether you are a resident of Hawaii or another state. This Agreement shall be governed by and construed in accordance with all applicable United States federal laws and all applicable substantive laws of Hawaii (without regard to conflict of law rules); provided, however, that the Arbitration Agreement set forth in [Section 39](#) is governed by the Federal Arbitration Act. In addition, CPB is subject to certain U.S. federal and Hawaii state laws and regulations governing the Account and the subject matter of this Agreement. You understand that CPB must comply with applicable laws and regulations. You agree that if there is any inconsistency between the terms of this Agreement and any applicable law, regulation, or rule, the terms of this Agreement will prevail to the extent any such law, regulation, or rule may be modified by agreement.

We do not intend to charge or receive any rate or charge higher than Hawaii law allows. The rates, fees, and charges under this Agreement will never exceed the highest lawful rates, fees, or charges under Hawaii law. We will promptly refund or credit to you any unlawful excess amount. We will reduce any excessive rate, fee, or charge to the maximum lawful rate, fee, or charge.

35. Severability.

If any of the terms of this Agreement is invalid, changed by applicable law or declared invalid by order of a court, we will have the right to either terminate this Agreement or continue this Agreement with the invalid provision severed.

Waivers and Arbitration Agreement

36. WAIVER OF RIGHT TO TRIAL BY JURY.

TRIAL BY JURY IS A CONSTITUTIONAL RIGHT. UNDER CERTAIN CONDITIONS THE LAW ALLOWS PARTIES TO WAIVE THIS RIGHT. CPB AND YOU KNOWINGLY AND FREELY WAIVE ALL RIGHTS TO A JURY TRIAL FOR ANY SUIT RELATED DIRECTLY OR INDIRECTLY TO (A) THIS SWELL CREDIT AGREEMENT, (B) THE SWELL CREDIT ACCOUNT, AND (C) YOUR APPLICATION. THIS JURY TRIAL WAIVER WILL NOT CHANGE ANY SEPARATE ARBITRATION PROVISION TO WHICH CPB AND YOU AGREE.

The waiver set forth in this [Section 36](#) applies whether or not you opt out of arbitration as described in [Section 39](#).

37. CLASS ACTION WAIVER, MASS ACTION WAIVER.

YOU AGREE TO CONDUCT ANY DISPUTE RESOLUTION PROCEEDING ON AN INDIVIDUAL BASIS ONLY. YOU HEREBY WAIVE YOUR RIGHT TO DO ANY OF THE FOLLOWING: (A) SERVE AS A PRIVATE ATTORNEY GENERAL OR IN A REPRESENTATIVE CAPACITY; (B) BE IN A LAWSUIT OR DISPUTE WHERE THERE IS MORE THAN ONE PLAINTIFF OR PETITIONER, UNLESS THE ADDITIONAL PLAINTIFF OR PETITIONER IS A CO-BORROWER OR ANOTHER PERSON THAT WOULD BE DEEMED AN "INDISPENSABLE PARTY" TO SUCH PROCEEDING; (C) BRING OR BE A CLASS MEMBER IN A CLASS ACTION OR CLASS ARBITRATION; (D) JOIN, COMBINE, OR CONSOLIDATE (OR PERMIT TO BE JOINED, COMBINED, OR CONSOLIDATED) A DISPUTE YOU HAVE WITH A DISPUTE INVOLVING OR BROUGHT BY ONE OR MORE OTHER CONSUMERS; AND (E) PARTICIPATE IN ANY WAY IN ANY DISPUTE RESOLUTION PROCEEDING THAT IS A "MASS ACTION." IF ANY WAIVER OR ANY PART OF ANY WAIVER BY YOU CONTAINED IN THE FOREGOING SENTENCE IS PROHIBITED BY LAW OR DEEMED CONTRARY TO PUBLIC POLICY BY A FINAL, NON-APPEALABLE ORDER OF A COURT OF COMPETENT

JURISDICTION, YOU AND CPB AGREE THAT YOU SHALL NOT BE ENTITLED TO RECOVER ANY ATTORNEYS' FEES OR COSTS ASSOCIATED WITH YOUR PURSUING OR PARTICIPATING IN THE CLASS ACTION, REPRESENTATIVE ACTION, OR "MASS ACTION," EVEN IF SUCH FEES OR COSTS MAY BE AWARDED TO YOU UNDER APPLICABLE LAW.

Each of the waivers set forth in this [Section 37](#) applies whether or not you opt out of arbitration as described in [Section 39](#). If you do not opt out of arbitration and become involved in a Dispute that is arbitrated, you and CPB agree that if the arbitrator for such proceeding fails or refuses to enforce the waiver of class-wide arbitration, then the Dispute will proceed solely in a United States federal court situated in the state of Hawaii and will be decided by a judge sitting without a jury, under applicable court rules and procedures and may be enforced by such United States federal court through any measures or reciprocity provisions available. The validity, effect and enforceability of each of the waivers set forth in [Section 36](#), [Section 37](#), and [Section 39](#) is to be determined solely by a United States federal court situated in the state of Hawaii, and not by an arbitrator. For any proceeding contemplated by the preceding sentences, you and CPB irrevocably consent to the sole jurisdiction of United States federal courts in the state of Hawaii, regardless of whether such venue is an inconvenient forum.

38. Small Claims Court; Location of In-Person Arbitration Hearing.

You and CPB agree that CPB will not demand arbitration of any suit to resolve a Dispute you bring on your own behalf in small claims court; provided, however if the Dispute is transferred, removed, or appealed to a different court, it shall be subject to arbitration. Any party may demand arbitration of any appealed small claims decision. For any in-person arbitration hearing arising out of or related to (i) your Application, (ii) this Swell Credit Agreement, or (iii) the Swell Credit Account, such arbitration hearing must be at a place reasonably convenient to you (no more than thirty miles from your residence), unless you agree otherwise, and that disputes subject to arbitration may also be resolved in writing or by conference call.

39. ARBITRATION AGREEMENT

PLEASE READ THIS ARBITRATION AGREEMENT CAREFULLY.

WHAT IS ARBITRATION? Arbitration is an alternative to court. In arbitration, a third-party arbitrator resolves Disputes in a hearing. Arbitration proceedings are private and usually are less formal, faster, and less costly than a lawsuit. Pre-hearing fact finding and discovery in arbitration proceedings sometimes is limited. Appeals are limited, and courts rarely overturn arbitration awards.

Furthermore, for Disputes being resolved in an arbitration proceeding under the Swell Credit Agreement:

- (a) a jury will not decide Disputes;
- (b) a court will not decide Disputes;
- (c) no individual will serve as a private attorney general or in a representative capacity;
- (d) a Dispute you have will not be joined or permitted to be joined with a dispute by or involving other consumers; and
- (e) no person will be a class member, and no arbitration will be a class action or class arbitration.

AGREEMENT TO ARBITRATE. You and CPB agree that any Dispute will be resolved by arbitration; provided, however, that small claims court proceedings are permitted by [Section 38](#) above. You and CPB acknowledge and agree that this Arbitration Agreement requires you and CPB to do, and you and CPB agreed to all of the following:

- GIVE UP THE RIGHT TO HAVE A TRIAL BY JURY TO RESOLVE ANY DISPUTE;
- GIVE UP THE RIGHT TO HAVE A COURT (OTHER THAN A SMALL CLAIMS COURT AS PERMITTED BY SECTION 38) RESOLVE ANY DISPUTE; AND
- GIVE UP THE RIGHT TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, AND/OR TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY DISPUTE.

CPB and you agree that any party may arbitrate or demand arbitration of any Dispute unless you timely opt out of this Arbitration Agreement (as provided below) or the law does not allow it.

WHAT DISPUTES ARE NOT SUBJECT TO ARBITRATION? CPB will not demand arbitration of any suit to resolve a Dispute you bring on your own behalf in small claims court (as permitted by Section 38); provided, however if the Dispute is transferred, removed or appealed to a different court, it shall be subject to arbitration. The validity, effect and enforceability of each of the waivers set forth in Section 36, Section 37, and this Section 39 is to be determined solely by a United States federal court situated in the state of Hawaii, and not by an arbitrator.

WHO DOES THIS ARBITRATION AGREEMENT COVER? This Arbitration Agreement covers CPB and you. This Arbitration Agreement also applies if a Dispute is brought against one or more Related Parties (as defined in the Definitions section above). Related Parties benefit from this Arbitration Agreement. You may not compel a Related Party to arbitration, but a Related Party may compel you to arbitrate each and every Dispute that is covered by this Arbitration Agreement.

WHO WILL BE THE ARBITRATOR? Regardless of who initiates the arbitration, the parties may agree to select a local individual arbitrator who is an attorney, retired judge or arbitrator registered and in good standing with an arbitration association and arbitrate pursuant to the arbitrator's rules. If a local individual arbitrator is not selected by mutual agreement, the arbitration may be administered by the American Arbitration Association (1-800-778-7879) <http://www.adr.org> ("AAA") or JAMS (1-800-352-5267) <http://www.jamsadr.com> ("JAMS").

WHAT LAW APPLIES TO THE ARBITRATION AND THIS ARBITRATION AGREEMENT? The Federal Arbitration Act ("FAA") governs this Arbitration Agreement. The arbitrator must apply law consistent with the FAA. The arbitrator must honor statutes of limitation and privilege rights. Constitutional standards that apply in court proceedings govern punitive damage awards. The arbitrator may decide, with or without a hearing, any motion that is substantially similar to a motion to dismiss for failure to state a claim or a motion for summary judgment.

WHAT RULES APPLY TO THE ARBITRATION? If the parties use an arbitration company such as AAA or JAMS, then that company's consumer arbitration rules will apply. If the parties chose an individual arbitrator, then such arbitrator will follow the JAMS consumer arbitration rules, unless the parties mutually agree to an alternative set of rules. In any case, the arbitrator will not apply any state or federal rules of civil procedure or evidence. Arbitration rules that conflict with this Arbitration Agreement do not apply. No arbitration may be held without CPB's consent by an arbitration company or arbitrator that would allow class arbitration of a Dispute.

HOW IS ARBITRATION STARTED? If you or CPB are the party that desires to initiate a lawsuit or arbitration, before starting such lawsuit or arbitration, the party that desires to initiate a lawsuit or arbitration must give a Dispute Notice as Section 25 above requires. If you are the Claimant (as defined in Section 25 above), you or your attorney must sign the Dispute Notice and include in the Dispute Notice your Account Number and a contact number for you or your attorney. Collections letters from CPB and its authorized servicing representatives are Dispute Notices. Dispute Notices must be sent to CPB at the Bank Notice Address and to you at the Borrower Notice Address. Each Dispute Notice (other than collections letters from CPB and its authorized servicing representatives) must give at least 30 days to settle the Dispute. If the parties do not settle the Dispute within the 30-day period, Claimant may start arbitration. Any party to a Dispute (including you, CPB, Swell, and a Related Party) may start the arbitration process, as follows:

1. Send written notice of the intent to arbitrate, including a description of the Dispute and the type and amount of relief requested. This notice should be sent even if a lawsuit has been filed. This notice should be sent by Certified Mail, Return Receipt Requested. Recipients of such notices have twenty (20) days from receipt to respond in a writing delivered by Certified Mail, Return Receipt Requested. Notices to you must be sent to the Borrower Notice Address, and notices to CPB must be sent to the Bank Notice Address.

2. If the party demanding arbitration desires to use a local individual arbitrator, then such selection must be communicated in writing to the other parties to the arbitration and is subject to the agreement of such other parties. If all parties to the arbitration do not agree to the same local individual arbitrator, or if the party demanding arbitration desires to use an arbitration company (such as AAA or JAMS), then such party must file the necessary paperwork with the arbitration company to commence the arbitration.

3. If the party demanding arbitration fails to properly notify the other parties of the desired local individual arbitrator or arbitration company or fails to file necessary paperwork with an arbitration company, then any other party to the arbitration has the right to select the arbitration company.

If one party sues or threatens to sue other than by bringing a case in small claims court as permitted by Section 38 above, the other party can demand arbitration. This demand can be made in court papers. It can be made if a party sues on an individual basis and then tries to pursue a class action. Once an arbitration demand is made, no suit can be brought and any current suit must stop (other than suits permitted to be brought in small claims court). Any party may sue or continue with a suit if the other party does not demand arbitration.

WHO IS RESPONSIBLE FOR ARBITRATION COSTS? At your request CBP will pay the filing fee and any costs or fees charged by the arbitrator regardless of which party initiates the arbitration. Except where otherwise provided by the FAA or except as may be required by Hawaii law (which governs the Swell Credit Account), each party will be responsible for its own attorneys' fees and other expenses. Unless prohibited by the FAA or Hawaii law (which governs the Swell Credit Account), the arbitrator may award fees, costs and reasonable attorneys' fees to the party who substantially prevails in the arbitration.

HOW DOES THIS ARBITRATION AGREEMENT IMPACT CLASS ACTIONS AND MASS ACTIONS? You and CPB agree that the arbitrator has no authority to conduct class-wide proceedings or multiple arbitrations or proceedings as a "mass action" and will be restricted to resolving the individual Disputes between the parties. If the arbitrator fails or refuses to enforce the waiver of class-wide arbitration or the waiver of mass actions, you and CPB agree that the Dispute will proceed solely in a United States federal court situated in the state of Hawaii and will be decided by a judge sitting without a jury, under applicable court rules and procedures and may be enforced by such United States federal court through any measures or reciprocity provisions available. The validity, effect and enforceability of this waiver of class action lawsuit and class-wide and mass action arbitration is to be determined solely by a United States federal court situated in the state of Hawaii, and not by the arbitrator. You irrevocably consent to the sole jurisdiction of United States federal courts in the state of Hawaii for purposes of this Arbitration Agreement, regardless of whether such venue is an inconvenient forum for you.

WHAT REMEDIES MAY THE ARBITRATOR AWARD? The arbitrator has the ability to award to the prevailing party all remedies available under applicable law, whether at law or in equity. If allowed by applicable law, the arbitrator may award statutory damages and/or reasonable attorneys' fees and expenses. The arbitrator will make written findings. The award of the arbitrator must be supported by substantial evidence and must be consistent with this Arbitration Agreement and applicable law.

JUDICIAL REVIEW OF ARBITRATOR AWARD. The arbitrator's award may be filed with a United States federal court situated in Hawaii. If the arbitration award is not supported by substantial evidence or is inconsistent with this Arbitration Agreement or applicable law, the arbitration award may be set aside by the court upon judicial review.

SURVIVAL. This Arbitration Agreement will survive and remain in force following (i) the closure, cancellation, payment in full, charge-off, transfer, sale, or assignment of the Swell Credit Account, this Swell Credit Agreement, or any amounts owing under this Agreement or on the Account, and (ii) the bankruptcy of you, CPB, Swell, any Related Party, and any other party associated with the Account or this Agreement. You can opt out of this Arbitration Agreement as described below.

RIGHT TO OPT-OUT. You have a right to opt out of resolving Disputes under this Arbitration Agreement. In order to effectively opt out of this Arbitration Agreement for your Account, you must take all of the following steps within sixty (60) days of the date on which you activated the Account (the “*Opt-Out Deadline*”):

1. Mail a written opt-out notice to CPB in care of Swell Member Services, Attention: Arbitration Opt-Out, P.O. Box 371680, PMB 38519, Denver, CO 80237-5680. We do not accept electronic notices of arbitration opt out.

Your written opt-out notice must include the following information:

- your full name; and
 - your full Account Number or the last four (4) digits of your social security number; and
 - a statement that you reject arbitration and opt-out of this arbitration agreement for your accounts.
2. Ensure that your opt-out notice is received by us within the opt-out deadline.

Opting out of this Arbitration Agreement will not affect any other provision of the Swell Credit Agreement. If you opt out, your opting out will apply only to this Swell Credit Agreement and does not apply to any other contractual agreement or arrangement between you and CPB. **IF YOU OPT OUT, ANY DISPUTES WILL STILL BE GOVERNED BY HAWAII LAW AND APPLICABLE FEDERAL LAW.**

If you do not complete the opt-out process described above within the Opt-Out Deadline, then this Arbitration Agreement will remain in full force and effect as of the date on which you opened your Account.

Military Covered Borrowers

40. Military Lending Act Matters.

The Military Lending Act provides protections for certain members of the Armed Forces and their dependents. “*Covered Borrower*” means a consumer who, at the time the consumer becomes obligated on a consumer credit transaction or establishes an account for consumer credit, is a Covered Member or a dependent of a Covered Member. “*Covered Member*” means a member of the armed forces who is serving on (i) Active duty pursuant to title 10, title 14, or title 32, United States Code, under a call or order that does not specify a period of 30 days or fewer; or (ii) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. §101(d)(6).

If you are a Covered Borrower, (i) the Arbitration Agreement, (ii) any waiver of right to legal recourse under any state or federal law and (iii) any other provision in this Agreement that is not enforceable against you under the Military Lending Act does not apply to you so long as you are a Covered Borrower. If you would like more information about whether you are a Covered Borrower and whether the provisions related to Covered Borrowers apply to you, call Swell Member Services at 1-855-808-5220, or email support@swellmoney.com.

41. Statement of MAPR.

Federal law provides important protections to members of the Armed Forces and their dependents relating to extensions of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an Annual Percentage Rate of 36%. This rate

must include, as applicable to the credit transaction or account: (i) the costs associated with credit insurance premiums; (ii) fees for ancillary products sold in connection with the credit transaction; (iii) any application fee charged (other than certain application fees for specified credit transactions or accounts); and (iv) any participation fee charged (other than certain participation fees for a credit card account).

42. Oral Disclosures.

In order to hear important Military Lending Act disclosures and payment information provided in this Agreement, please call Swell Member Services toll-free at 1-855-808-5220.

Your Billing Rights

Keep this Document for Future Use

This Notice tells you about your rights and our responsibilities under the Fair Credit Billing Act.

What To Do If You Find a Mistake On Your Account:

If you think there is an error on your periodic billing statement, write us at the address shown on your periodic billing statement. You may also contact us on the Swell Mobile App. In your letter, give us the following information:

- Account information: Your name and account number
- Dollar amount: The dollar amount of the suspected error.
- Description of the problem: If you think there is an error on your periodic billing statement, describe what you believe is wrong and why you believe it is a mistake.

You must contact us:

- Within 60 days after the statement date of the periodic billing statement on which the error first appeared.
- At least 3 business days before an automated payment is scheduled, if you want to stop payment on the amount you think is wrong.

You must notify us of any potential errors in writing. You may call us, but if you do, we are not required to investigate any potential errors and you may have to pay the amount in question.

What Will Happen After We Receive Your Letter:

When we receive your letter, we must do two things:

- Within 30 days of receiving your letter, we must tell you that we received your letter. We will also tell you if we have already corrected the error.
- Within 90 days of receiving your letter, we must either correct the error or explain to you why we believe the bill is correct.

While we investigate whether or not there has been an error:

- We cannot try to collect the amount in question, or report you as delinquent on that amount.
- The charge in question may remain on your periodic billing statement, and we may continue to charge you interest on that amount.
- While you do not have to pay the amount in question, you are responsible for the remainder of your balance.
- We can apply any unpaid amount against your credit limit.

After we finish our investigation, one of two things will happen:

- If we made a mistake: You will not have to pay the amount in question or any interest or other fees related to that amount.
- If we do not believe there was a mistake: You will have to pay the amount in question, along with applicable interest and fees. We will send you a statement of the amount you owe and the date payment is due. We may then report you as delinquent if you do not pay the amount we think you owe.

If you receive our explanation but still believe your bill is wrong, you must write to us within 10 days telling us that you still refuse to pay. If you do, we cannot report you as delinquent without also reporting that you are questioning your bill. We must tell you the name of anyone to whom we report you as delinquent, and we must let those organizations know when the matter has been settled between us. If we do not follow all the rules above, you do not have to pay the first \$50 of the amount you question even if your bill is correct.

Additional Disclosures for Residents of Specific States:

43. State-Specific Disclosures/Provisions.

The information in the following table applies to Borrowers who are residents of the states identified therein. CPB does not currently offer the Swell Credit Accounts or Swell Cash Accounts in all states, and the inclusion of a particular state the following table does not mean that CPB offers Swell Credit Accounts or Swell Cash Accounts in such state. To confirm if Swell products are available in your state, review the FAQ page in the Swell Mobile App or visit www.swellmoney.com/FAQ.

<p>Alabama.</p> <p>Attorneys' fees after default shall not exceed 15% of the unpaid debt or such higher amount as the court may allow.</p>
<p>California.</p> <p><i>Credit Report Notice to California Residents:</i> As required by California state law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit-reporting agency if you fail to fulfill the terms of your credit obligations.</p> <p><i>Notice to California Residents:</i> By signing the Agreement, you specifically agree that the Bank may access the records of the California Department of Motor Vehicles from time to time to obtain your current mailing address, and by so agreeing, you are specifically waiving your rights under sections 1808.21 and 1808.22 of the California Vehicle Code.</p>
<p>Georgia.</p> <p>Attorney fees after default shall not exceed 15% of principal and accrued interest or such higher amount as the court may allow.</p>
<p>Missouri.</p> <p><i>For Missouri Residents:</i> Oral agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable. To protect you (Borrower) and us (the Bank) from misunderstanding or disappointment, any agreements we reach covering such matters are contained in this writing (Agreement), which is the complete and exclusive statement of the Agreement between us, except as we may later agree in writing to modify it.</p>
<p>New Hampshire.</p> <p><i>New Hampshire Residents:</i> This Agreement provides for reasonable attorneys' fees to be awarded to us in an action against you involving this Agreement. Reasonable attorneys' fees will be awarded to you if you prevail in any action, suit or proceeding brought by us; or an action brought by you. If you successfully assert a partial defense or set-off, recoupment or counterclaim to an action brought by us, the court may withhold from us the entire amount or such portion of the attorney fees as the court considers equitable.</p>
<p>New Jersey.</p> <p><i>New Jersey Residents:</i> Because certain provisions of this Agreement are subject to applicable laws, they may be void, unenforceable or inapplicable in some jurisdictions. None of these provisions, however, are void, unenforceable or inapplicable in New Jersey.</p>

New York.

New York Credit Report Disclosure: Due to NY state laws, a consumer credit report may be ordered for credit updates, renewals or extensions. Upon your request, you can be informed if such a report was ordered and if you do so, you will be given the name and address of the reporting agency.

Ohio.

Ohio Residents: Ohio anti-discrimination laws require creditors to make credit equally available to all creditworthy customers and that credit-reporting agencies maintain separate histories to be furnished upon request. The Ohio Civil Rights Commission administers these laws.

Utah.

Notice to Utah Borrowers: This written agreement is a final expression of the agreement between you and the Bank. This written agreement may not be contradicted by evidence of any oral agreement.

Vermont.

Vermont Credit Report Disclosure: Submission of the consumer credit application constitutes your consent authorizing the Bank to obtain at any time your credit report, for any legitimate purpose associated with the account or the application or request for an account, including but not limited to reviewing, modifying, renewing and collecting on your account.

Washington.

Washington Residents: Oral agreements or oral commitments to loan money, extend credit or to forbear from enforcing repayment of a debt are not enforceable under Washington law.

Wisconsin.

Notice to Wisconsin Borrowers: No provision of a marital property agreement, unilateral agreement under Wis. Stat. Section 766.59 or a court decree under Wis. Stat. 766.70 adversely affects the interest of the Bank unless prior to the time the credit is extended, the Bank is furnished with a copy of the agreement or statement or has actual knowledge of the adverse provision when the obligation to the Bank is incurred.

Notice to Wisconsin Borrowers: If you are married and are extended individual credit, Wis. Stat. 765.56(3)(b) requires us to notify your spouse of the extension of credit. If we receive written notice of termination from your spouse pursuant to Wis. Stat. 766.565(5) we may declare you in default of the Account and call the Account due and payable notwithstanding Wis. Stat. 425.102 and 425.105. If the Account is called due and payable, you may have certain rights to cure the default.

Default Disclosure to Borrowers in Wisconsin: You shall be in default under the Agreement if any of the following occur: (a) If an amount exceeding one (1) full payment due under this Agreement is more than ten (10) days late or if the first or last payment due under this Agreement is more than forty (40) days late or (b) you breach any term or condition of this Agreement, which breach materially impairs your ability to pay amounts when due.

Right to Cure Default Disclosure to Wisconsin Borrowers: If you are in default under the Agreement, we must give a notice of default to you pursuant to Wis. Stat. 425.104 - 425.105. You will have fifteen (15) calendar days from the date the notice is mailed to you to cure the default. In the event of an uncured default, we will have all the rights and remedies for default provided under the Wisconsin Consumer Act or other applicable law. We may waive any default without waiving any other subsequent or prior default by you. Pursuant to Wis. Stat. 425.105(3), you will not have the right to cure default if the following occur twice during the preceding twelve (12) months: (a) you are in default on the Account, (b) we gave you notice of the right to cure such previous default in accordance with Wis. Stat. 425.104 and (c) you cured the previous default. Nothing in this Agreement shall be construed to restrict our ability to exercise our rights under the Wisconsin Consumer Act or other applicable law.

Colorado, District of Columbia, Kansas, Maine, Massachusetts, Missouri, Nebraska, and West Virginia.

Disclosure of Action Upon Default: Once you have defaulted, and after the expiration of any right you may have under applicable state law to cure your default, we can demand immediate payment of the entire unpaid balance of the Account without giving you advance notice. The principal balance in default shall bear interest at the contract rate, or a default rate if one has been disclosed to you, or another rate if required by applicable law.

Idaho, Kansas and Maine.

Default Disclosure: You will be in default if (1) you do not make a payment of the required amount when due or (2) we believe the prospect of payment, performance or realization on any property given as security is significantly impaired.

Signatures

Borrower: Your signature (including any electronic or digital signature) on the Swell Credit Account Opening Disclosures and Acknowledgment constitutes your signature on and agreement to this Agreement. Your address as of the opening of your Swell Credit Account is as set forth on the Swell Credit Account Opening Disclosures and Acknowledgment.

Bank:

Central Pacific Bank
220 South King Street
Honolulu, HI 96813