



SwellMoney.com Website and Swell Mobile Application Terms and Conditions Effective March 2023

Please read carefully this SwellMoney.com Website and Swell Mobile Application Terms and Conditions (the “*Terms and Conditions*” or this “*Agreement*”) before accessing and using the SwellMoney.com website (the “*Website*”) or downloading or using the Swell Mobile Application (the “*Mobile App*”) on your mobile device. Accessing and using the Website or the Mobile App constitutes your acceptance of these Terms and Conditions, which is a binding legal contract between you, the individual user hereof (“*You*” and “*Your*”) and Swell Financial, Inc. and its affiliated companies (herein, “*Swell*”, the “*Company*”, “*we*”, “*us*” and “*our*”). SWELL REQUIRES ALL USERS AND VIEWERS OF THE MOBILE APPLICATION AND WEBSITE TO AGREE TO AND BE BOUND BY THE TERMS OF THIS AGREEMENT AS A CONDITION TO ACCESSING AND USING THE WEBSITE AND THE MOBILE APP. PLEASE CAREFULLY REVIEW THIS AGREEMENT AND THE SWELL PRIVACY POLICY (WWW.SWELLMONEY.COM/PRIVACY), WHICH GOVERNS OUR TREATMENT OF YOUR INFORMATION THAT YOU SUBMIT VIA THE WEBSITE AND THE MOBILE APP. IF YOU DO NOT WISH TO AGREE TO AND BE BOUND BY THIS AGREEMENT, YOU SHOULD IMMEDIATELY DISCONTINUE USING AND ACCESSING THE WEBSITE AND THE MOBILE APP AND DELETE THE MOBILE APP FROM YOUR PERSONAL DEVICE(S).

Introduction

Welcome to Swell! The SwellMoney.com Website and the Swell Mobile Application are owned and operated by Swell and used by Swell to provide information about and/or to deliver products and services promoted or supported by Swell and offered by the banks, lenders, investment companies, and other third-party providers with whom Swell works (with such parties and their respective service providers and vendors being referred to herein each as a “*Provider*” and together as the “*Providers*”). All pages, content and functionality included on the Mobile App and the Website, including images, illustrations, designs, icons, photographs, video clips, audio clips, logos, button icons, software, written materials and other materials (collectively, the “*Contents*”) are the property of Swell or its content suppliers and are protected by U.S. and international copyright laws.

General

We may from time to time in our sole discretion and without notice to you modify the terms of this Agreement and/or change the rules that govern your use of the Mobile App or the Website. We may change, move or delete portions of, or may add to, the Mobile App or the Website from time to time. Please review this Agreement each time you use the Mobile App or the Website for the most current terms and conditions for the use of the Mobile App or the Website. Your use of the Mobile App and/or the Website following any such change constitutes your agreement to follow and be bound by this Agreement and rules as changed. We may discontinue the operation, maintenance or provision of the Mobile App and the Website, any pages thereof, and/or any related content, features, products or services, or the terms thereof, at any time without notice or liability to you or any third party.

Your access to the Website and Mobile App

You represent that you have reached the legal age of majority according to the laws of your state of residence. If you have not reached the legal age of majority according to the laws of your state of residence, please do not enter your personal information. The Swell Mobile App and the SwellMoney.com Website are not directed at children. Swell and the Providers do not knowingly collect information from persons who have not reached the age of majority in their states of residence. We are not responsible or liable to you for any errors or failures resulting from defects in or malfunction of (i) any telephone equipment and services, (ii) Internet connection services, (iii) computer hardware and software, and (iv) other equipment necessary for you to access and use the Website or Mobile App.

Accounts, Passwords and Security

Certain features or services offered on or through the Website or Mobile App may require you to open an account which includes setting up a unique user identification (“*User ID*”) and a password (“*Password*”). Swell may assign you a customer extranet username and password to enable you to access and use certain portions of the Website or the Mobile App. Each time you create or use a User ID or a Password, you will be deemed to be authorized to access and use the Website and Mobile App in a manner consistent with the terms and conditions of this Agreement, and Swell has no obligation to investigate the authorization or source of any such access or use of the Website or Mobile App. You agree to maintain the confidentiality of the information of any User ID and Password associated with or assigned to you and the security and integrity of any information you download from the Website and Mobile App. You remain responsible for any and all activity that occurs under your Swell User ID as a result of your failing to keep this information secure and confidential. You may be held liable for losses incurred by us or any other user of or visitor to the Website or Mobile App due to someone else using your User ID Password or accessing your Swell Profile or account as a result of your failing to keep your Swell User ID, Password, Swell profile, and related information secure and confidential.

YOU WILL BE SOLELY RESPONSIBLE FOR ALL ACCESS TO AND USE OF THE WEBSITE AND MOBILE APP BY ANYONE USING ANY USER ID AND PASSWORD ASSOCIATED WITH OR ASSIGNED TO YOU, WHETHER OR NOT SUCH ACCESS TO AND USE OF THE WEBSITE OR MOBILE APP IS ACTUALLY AUTHORIZED BY YOU, INCLUDING WITHOUT LIMITATION, ALL COMMUNICATIONS AND TRANSMISSIONS AND ALL OBLIGATIONS (INCLUDING WITHOUT LIMITATION FINANCIAL OBLIGATIONS) INCURRED THROUGH SUCH ACCESS OR USE.

You shall immediately notify Swell in writing of any unauthorized use of your Swell User ID or Password or any other breach or threatened breach of the Website’s or Mobile App’s security, by sending a letter to Swell Financial, Inc., Attn: Legal Department, 2101 Pearl Street, Boulder, Colorado 80302.

You may not use anyone else’s User ID or Password or access anyone else’s Swell profile or account, at any time without the express permission and consent of the holder of that User ID, Password, Swell profile or account. You agree that we will not be liable for any loss or damage arising from your failure to comply with these obligations.

Privacy and Collecting Information

Swell may collect and store personally identifiable information about you if you voluntarily submit such information to Swell via the Mobile App or the Website. Personally identifiable information may include your name, email address, physical address and other information that specifically identifies you. Swell may use any personal information you supply through the Mobile App or the Website in accordance with the Swell Privacy Policy (www.swellmoney.com/privacy) and applicable law.

Swell may also automatically collect (through cookies, described below, and other methods) and store aggregate or anonymous information about user contact with and use of the Mobile App and the Website. This information, which does not identify individual consumers, is used by Swell for its business purposes, which may include improving products or services, research, marketing or analyzing market trends, and other purposes consistent with applicable laws. Examples of this type of information include demographic information, the type of Internet browser you are using, the length of time you spent on the Mobile App or the Website, the domain name of the web site from which you linked to the Website or the Mobile App, system configuration and settings and your browsing habits on and usage of the Mobile App or the Website. Non-personally identifiable information may also include personally identifiable information that has been aggregated so that no one individual is specifically identifiable (such as, how many users in a particular city access the Mobile App or the Website).

Use of Information in Connection with Submitting a Product Application

If you use the Mobile App or Website to submit an application to open a Swell Cash deposit account or a Swell Credit personal line of credit (an “*Application*”), you understand and agree that the information you submit will be shared with, received, reviewed and processed by the bank provider of such products, Central Pacific Bank, Member FDIC (“*CPB*”), <https://www.cpb.bank>. CPB and each of its service providers is a Provider for purposes of this Agreement.

CPB may obtain a consumer credit report in connection with your Application and in connection with any updates, renewals, refinances or extensions of any deposit product and any credit product opened as a result of your Application. If you ask, you will be informed whether or not such a report was obtained and, if so, the name and address of the agency that furnished the report. You also understand and agree that

CPB may also investigate your credit, employment and financial status with third-party data providers (including consumer reporting agencies and other non-traditional sources of data) in connection with reviewing and processing your Application, collecting amounts owing on any Swell Cash deposit account or a Swell Credit personal line of credit you may open, and for other legitimate purposes related to such transactions. As a condition to processing your Application and as part of CPB's verifying your identity as required by federal law, you must have a mobile device with a camera and you will be required to enable and use your camera during the Application process. Any photo(s) or video(s) of you will not be retained beyond the time frame reasonably necessary to process your Application except as may be required by applicable law, and any photo(s), video(s) or related information that may be retained will be held consistent with CPB's Privacy Policy for the Swell Program (www.swellmoney.com/central-pacific-bank-privacy) and the Swell Privacy Policy (www.swellmoney.com/privacy).

Cookies

Swell collects anonymous, non-confidential, and non-personal information when you use the Mobile App or the Website, send us emails, or respond to special promotions or newsletters that we may send to you from time to time. Cookies are small computer files that we transfer to your computer's hard drive that allow us to know how often someone visits a site or application and the activities they conduct while on that site or while using the application (whether you requested more information, etc.). Each computer and device is assigned a different cookie by Swell. The information collected by cookies helps us dynamically generate content on web pages and also allows us to statistically monitor how many people are using the Mobile App, the Website, or are opening our emails. We may use cookie information to determine the popularity of certain content or advertisements. It may be possible to link non-personal cookie information to personally identifiable information collected. You may be able to turn off cookies in your browser, but this may hinder our ability to provide you with certain services or your ability to enjoy certain features of the Mobile App or the Website.

Automatic Logging of Session Data

We automatically log generic information about your computer and mobile device and your computer's and mobile device's connection to the Internet, which we call "session data." Session data consists of things such as device information, IP address, operating system and browser software information, and the activities conducted by the user while on the Website or Mobile App. An IP address is a number that lets computers and mobile devices connected to the Internet, such as our web servers, know where to send data back to the user, such as the pages of the Website or Mobile App which the user wishes to view or use. We collect session data because it helps us analyze such things as what items visitors are likely to click on most, the way visitors are clicking through the Website and using the Mobile App, how many visitors are surfing to various pages on the Website and using features of the Mobile App, how long visitors to the Website and users of the Mobile App are staying and how often they are visiting. It also helps us diagnose problems with our servers and lets us better administer our systems. It is possible to determine from an IP address a visitor's Internet Service Provider (ISP) and the approximate geographic location of such visitor's point of connectivity, whether via computer or device. We also collect and use session data to help prevent the unauthorized use of the Website and the Mobile App. Session data is sometimes shared with third parties.

Electronic Communications

By using the Mobile App and the Website, you agree that Internet transmissions are never completely private or secure. Swell and the Providers each take commercially reasonable measures to protect the security of information electronically transmitted through the use of the information forms and other tools integrated into the Mobile App and the Website. However, we advise you to exercise caution when sending Swell and the Providers e-mail through the Internet. You understand that any message or information you send through email may be read or intercepted by others. For example, e-mail may be intercepted by a third party. Please do not use e-mail to send confidential or privileged information (such as social security numbers, bank account numbers, etc.) or information Swell or a Provider requires you to send in writing. You agree that Swell and the Providers have no liability for any losses or damages you incur as a result of a third party intercepting and using without authorization any information transmitted by you via unsecure e-mail. When you send emails to Swell and the Providers, you are communicating electronically, and you consent to receive responsive communications from Swell and the Providers

electronically via email or by posting notices on the Website and in the Mobile App. You agree that all agreements, notices, disclosures and other communications that Swell and the Providers provide to you electronically satisfy any legal requirement that such communications be in writing. You agree that Swell may send email to you for the purpose of advising you of changes or additions to the Mobile App or the Website.

Chat

In connection with any product or service promoted or supported by Swell, Swell may make interactive online chat (“*Chat*”) service available to you. Swell makes no warranty that Chat service will be available at any particular time or be free of fault or error. Swell provides the Chat service as a convenience to facilitate your understanding of the products and services promoted or supported by Swell, and online applications related to those products and services. Any Chat service agents will endeavor to provide you with accurate and current information based on your question or need. No communications during the Chat service shall be considered a legal agreement, representation, or warranty as to products or services promoted or supported by Swell, and the underwriting and delivery of same. You will not use the Chat service to send any abusive, defamatory, dishonest, or obscene message - doing so may result in termination of the Chat service session and your relationship with Swell and Providers.

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User Comments, Feedback and Other Submissions

All comments, feedback, suggestions, ideas, and other submissions disclosed, submitted or offered to Swell on or by the Mobile App and the Website or otherwise disclosed, submitted or offered in connection with your use of the Mobile App and the Website (collectively, “*Comments*”) shall be and remain Swell’s property. Such disclosure, submission or offer of any Comments shall constitute an assignment to Swell of all worldwide right, title and interest in and to all copyrights and other intellectual property rights in the Comments. Thus, Swell will own exclusively all such right, title and interest and shall not be limited in any way in its use, commercial or otherwise, of any Comments.

Availability of Products and Services

Not all of the products and services described in the Mobile App and the Website are available to residents of each state. Where you reside also may limit whether you qualify for certain products and

services. Furthermore, the terms of the products and services may differ depending upon the state in which you reside. The terms and features of each product and service promoted or supported by Swell (*i.e.*, rates, terms, amounts, charges), as well as the eligibility requirements for each such product and service (*i.e.*, residency, income, creditworthiness), are determined by the Provider of such product or service. The description of the terms, conditions, features, and eligibility requirements of all products and services featured on the Website or in the Mobile App is not a binding legal offer from Swell or the Provider of such product or service. The description of such products and services may change without notice. Each product and service at all times remains subject to the eligibility and underwriting requirements of the Provider of such product or service. Swell does not intend, and the Providers of products and services do not intend, for the Mobile App or the Website and/or any products, services or information described or provided therein to be obtainable or used by any person in any city, state or jurisdiction where such distribution, availability or use would violate applicable law.

Links to Other Websites and Services

The Mobile App and the Website each contain links to outside services and resources, the availability and content of which Swell does not control. We are not responsible for examining or evaluating, and we do not endorse these businesses or individuals or the content of their websites. Swell does not assume any responsibility or liability for the actions, products, and content of these and any other third parties. Any concerns, including privacy, information-sharing and security policies, regarding any such service or resource, or any link thereto, should be directed to the particular outside service or resource.

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The Website is created and controlled by Swell in the State of Colorado, USA. As such, the laws of the State of Colorado will govern these disclaimers, terms and conditions, as well as all sales of products and services or other transactions affected through the Mobile App and the Website and any disputes relating thereto without giving effect to any principles of conflicts of laws. Swell reserves the right to make changes to the Mobile App, the Website, and these Terms and Conditions at any time. Any dispute arising under this Agreement shall be resolved solely and exclusively by the U.S. federal courts situated in Boulder County, Colorado. Before initiating arbitration or litigation concerning any potential dispute arising from the Agreement, you and we agree to mail a written notice to the other party, return receipt requested, to provide the other party an opportunity to resolve such grievance. Such notice shall include a proposed reasonable resolution to the grievance. A party receiving such notice must mail a written offer return receipt request proposing a reasonable settlement within 30 days (or such longer period as

applicable law may require). If an aggrieved party ultimately initiates arbitration or litigation, and if applicable law allows, then the adjudicator shall award reasonable attorney fees, court costs, and litigation expenses to the opposing party, if the adjudicator determines the (i) aggrieved party cannot prove compliance with this paragraph or (ii) opposing party timely offered a reasonable settlement.

Certain sections or pages on the Website and the Mobile App may contain separate terms and conditions. Any such disclosures, terms, policies, or agreements are accepted as an agreement between you and us, in addition to the terms and conditions of this Agreement. In the event of a conflict, the additional terms and conditions will govern for those sections or pages. For example, if a conflict exists, then the dispute resolution, jurisdiction, forum, and governing law provisions provided in any deposit account agreement, line of credit agreement, arbitration provision, privacy policy, notice of adverse action, any contract, provision, or agreement similar to any of the foregoing, related product and legal disclosures, federal and/or state mandated brochures and disclosures, account and transaction information, and other disclosures and information about the business relationship between you and Swell or between you and any Provider of a product or service you obtain using the Website or the Mobile App will supersede the choice of law and venue provisions provided in this Agreement.

Indemnification

You agree to defend, indemnify and hold Swell, Swell's affiliates, the Providers of each of the products and services promoted by Swell on the Website and Mobile App, and each of such entity's respective officers, directors, shareholders, successors in interest, employees, agents and subsidiaries harmless from and against any and all claims, damages, costs and expenses, including attorney's fees, arising from or related to your use of the Website or the Mobile App, your violation of this Agreement, or your infringement of any intellectual property obtained from the Mobile App or the Website.

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Any unauthorized use terminates the permission or license granted by Swell. Any attempt to engage in any of the foregoing prohibited acts is a violation of the rights of Swell and the Providers. If you breach this restriction, you may be subject to prosecution and damages.

Termination

This Agreement is effective unless and until terminated by Swell. Swell may terminate this Agreement at any time and may do so immediately without notice, and accordingly deny you access to the Website and the Mobile App, if in Swell's absolute discretion, you fail to comply with any term or provision of this Agreement. Upon any termination of this Agreement by Swell, you must promptly destroy all materials downloaded or otherwise obtained from the Mobile App or the Website, as well as all copies of such materials, whether made under the terms and conditions of this Agreement or otherwise, you must promptly cease using the Website, and you must promptly cease using the Mobile App and must destroy all copies, full or partial, of the Mobile App.

International Access

The Website and the Mobile App may be accessed from countries other than the United States. The Website and the Mobile App may contain products and services or references to products and services that are not available outside of the United States. Any such references do not imply that such products will be made available outside the United States. If you access and use the Website or the Mobile App from a location outside the United States, you are responsible for complying with your local laws and regulations.

You may not use or otherwise export or re-export the Mobile App except as authorized by United States law and the laws of the State of Colorado. In particular, but without limitation, the Mobile App may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the Mobile App, you represent and warrant that you are not located in any such country or on any such list.

Entire Agreement

This Agreement constitutes the current, sole and entire agreement between you and us with respect to the use of the Website and the Mobile App, and any and all prior "Terms and Conditions" with respect to the use of the Website and the Mobile App are superseded by this Agreement. You acknowledge and agree that no oral representations, practice or course of dealing between you and us, shall vary, modify or amend the terms and conditions of this Agreement. Any failure to exercise, or delay by us in exercising, any right or remedy shall not operate as a waiver thereof. If any of the provisions of the terms herein are held by a court or other tribunal of competent jurisdiction to be void or unenforceable, such provisions

shall be revised or eliminated to the minimum extent necessary and replaced with a valid provision that best embodies the intent of these Terms and Conditions, so that these Terms and Conditions shall remain in full force and effect.