



THE BERKSHIRE BANK

ACCOUNT AGREEMENT AND DISCLOSURES

Welcome to The Berkshire Bank.

You have many choices when selecting a financial institution, and we are glad that you chose us. We value our relationship with you and hope that we answered all your questions when you opened your account.

Whether you are opening a new account or currently have an account with us, please review this Account Agreement and Disclosures (this “Agreement”) for further details concerning your account and related services.

This Agreement explains our accounts and services in detail. This Agreement contains information about your banking options, as well as steps that you can take to help enhance your relationship with us and get the most out of your accounts.

It is important that you carefully review this Agreement, become familiar with its content, and keep it with your records for future reference. We want you to understand how our products and services work, as well as to understand some of the important responsibilities that exist – yours and ours. You are responsible for ensuring that any authorized signer on your accounts is familiar with this Agreement. This Agreement explains some important legal obligations that you have regarding your accounts.

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

Please read this entire Agreement carefully because it contains important provisions regarding your accounts at our Bank.

Effect of Agreement: This Agreement, together with the accompanying Schedule of Fees and Service Charges, contains the general rules, regulations, terms, conditions, and other disclosures for the accounts and services you have selected or will select in the future. It constitutes a legally binding contract between you and The Berkshire Bank (the “Bank” or “we” or “us” or “our”). In this Agreement, “you” and “your” mean the person or organization named as the depositor or customer on the signature card for the account or other banking relationship. Every depositor or accountholder must sign a signature card. **By signing a signature card, submitting an application, opening or maintaining an account, or using any account, product, or service that the Bank offers (or any additional account, product, or service in the future), you consent to the terms of this Agreement.** Continuing to maintain or use the account or service after a modification to the Agreement is considered your consent to those changes. This Agreement replaces any understandings, agreements, representations, and warranties, both written and oral, made prior to you entering into this Agreement. This Agreement is binding on all accountholders, signatories, heirs, successors, representatives, and beneficiaries.

Amendments: We may change the terms of this Agreement, including fees and features of your account, at any time, by adding new terms or conditions, or by modifying or deleting existing ones. We may do so without advance notice unless the law requires advance notice. If we are required to notify you of a change to the Agreement, we will describe the change and its effective date either (i) by a message within your account statement; (ii) by posting it on berkbank.com; (iii) by sending you an e-mail message; (iv) by directing you to a branch for the content of any change of the revised Agreement; or (v) by otherwise making the change available to you. If the law requires a different method of giving notice, we will use a method that the law requires. You can obtain a copy of the current version of this Agreement anytime by requesting it from your branch or at berkbank.com. Continuing to maintain or use your account after the effective date of any change, is considered your consent to the change.

We will mail or deliver a notice to you at least 21 days before any change is effective if the change would result in (i) an increase in fees; (ii) an increase in your liability; (iii) a reduction in the types of available electronic fund transfers (“EFTs”); or (iv) stricter limitations on the frequency or dollar amount of transfers that you may make.

We are not required to give you prior notice if an immediate change is necessary to maintain or restore the security of your account or our EFT system. If we make such a change permanent and disclose to you that it will not jeopardize the security of your account or our system, we will notify you in writing on or with the next regularly scheduled periodic statement or within 30 days of making the change permanent.

Business Purpose: You may not use any business accounts for personal, family, or household purposes, and you may not use any consumer accounts (which are personal accounts opened by one or more individuals) for business purposes.

Authorized Signers: The Bank is authorized to act based on instructions received with your signature, or by anyone else authorized on your signature card, unless the signature card for your account provides differently.

Fees and Charges: Please refer to the accompanying Schedule of Fees and Service Charges for fees that apply to your account. When you use an Automated Teller Machine (“ATM”) that we do not own, the ATM operator or any network used may charge you a fee and may charge a fee for a balance inquiry even if you do not complete a fund transfer.

Bank's Discretion: Whenever in this Agreement there is a provision that the Bank may act in a particular way, or that the Bank has the discretion to act, the Bank may act in its sole and unilateral discretion, and the Bank's decision shall not be subject to challenge.

SECTION A - General Rules and Regulations

(1) Applicable Laws, Rules, and Regulations: All of your accounts at the Bank are governed by these rules and regulations, the laws of the United States, the laws of New York State, the supervisory rules and regulations of the New York State Department of Financial Services, the Federal Deposit Insurance Corporation ("FDIC"), the Federal Reserve System, and the general commercial banking practices in the area served by the Bank.

(2) Address: You must notify the Bank, promptly and in writing, of any change in your address. All statements and notices that we are required to provide to you by mail will be sent to you by ordinary mail at the address shown on the Bank's records. We will not be liable to you for errors, debits, or charges to, or for your inability to complete any transaction in, your account resulting from an improper mailing address or e-mail address.

(3) Hours: The Bank will open its branches during the hours it finds suitable and convenient. Branches are generally open for business from Monday through Friday, although some of our branches may be open Saturday or Sunday, at hours that are determined by the Bank and which may be changed at our discretion. Each branch may have its own schedule, which can be obtained at that branch. The Bank will generally be closed on legal holidays and our Brooklyn and Washington Heights branches will generally be closed on certain religious holidays, which will be no more than 2 consecutive business days. Closings for religious holidays will normally be posted in those branches at least 2 weeks in advance. Deposits received by the Bank after 3:00 p.m. on a regular business day or on a Saturday, Sunday, legal holiday, or other non-business day, will be considered received on the following business day. We will consider and record all transactions after our daily cut-off time posted at the branch as if initiated on the next business day we are open.

(4) Deposits and Endorsements: You may make deposits in person at the Bank or by mail. We may refuse a deposit, or part of any deposit, or reverse any amount that we have added to your account balance for a deposited check at any time for any reason, including, but not limited to, checks with multiple payees or endorsements, substitute checks or checks bearing a substitute check legal equivalence statement, checks that are not properly payable, or checks which we have reason to doubt are collectible. We will not be liable to you for refusing a deposit, even if it causes us to decline any transaction that you have already made. We are not responsible for transactions by mail until we actually receive and record them.

The Bank may, but does not have to, sign an item you deposit in your name (known as an endorsement) if you do not endorse it. When you endorse an item, you should do so only in an area within 1.5 inches from the top edge of the back of the check, which is on the left side, looking at the check from the front. The Bank has the right to refuse to credit your account for a check when the back of the check is obscured or marked in any way, except for a proper endorsement. You are responsible and liable for any loss or damage that we may suffer because you endorse the check in any other location, or if you do not endorse the check properly, or because there is any other mark in any other area on the back of the check when you deposit it. If you deposit an electronically created item or a remotely created check (*i.e.*, a check created when an accountholder authorizes a payee to draw a check on the account, but instead

of the accountholder's actual signature, the check identifies that the accountholder authorized the check), you guarantee that the check was authorized by the accountholder for the amount shown.

(5) Returned Deposits or Bounced Items: If you deposit any check or other item, or if you cash it at one of our offices, and it is returned to us unpaid, we have the right to deduct the amount from any of your deposit accounts or place a hold on any of your accounts. We have this right even if we have already told you that the items has "cleared" or that the funds are available for withdrawal. We have this right for any item that is returned unpaid or dishonored for any reason, including for insufficient funds or because there is a claim that an item was altered, forged, unauthorized, has a missing signature, or should not have been paid for any reason.

(6) Direct Deposit: You may designate the Bank to receive deposits directly into any of your accounts. These direct deposits may include, for example, your salary, Social Security benefits, or pension or annuity payments. If the Bank receives a demand for reimbursement from any entity making the direct deposit claiming that you were not entitled to the payment, the Bank has the right to deduct the amount of the claim from your accounts without investigating. You must reimburse the Bank for the claim and for all the Bank's expenses related to the claim.

(7) Funds Availability Policy: Our policy is to make funds from your cash and check deposits available to you on the first business day after the day we receive your deposit. Electronic direct deposits will be available on the day we receive the deposit. Once the funds are available, you can withdraw them in cash and we will use them to pay checks that you have written.

(a) Determining the Availability of a Deposit: For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. If you make a deposit before 3:00 p.m. on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after 3:00 p.m., or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

(b) Same Day Availability: Funds from cash deposited in person to one of our employees and funds from electronic direct deposits, including Automated Clearing House ("ACH") credits, are available on the day we receive the deposit.

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

- Cash deposits not given same day availability.
- Wire transfers to your account.
- Checks drawn on the Bank.
- U.S. Treasury checks that are payable to you and deposited into your account.
- Federal Reserve Bank checks, Federal Home Loan Bank checks, and U.S. Postal Service money orders that are payable to you and deposited in person to one of our employees into your account.
- State and local government checks that are payable to you and deposited in person to one of our employees into your account using a special deposit ticket which is available on request at any branch.

- Cashier's, certified, and teller's checks that are payable to you and deposited in person to one of our employees into your account using a special deposit ticket which is available on request at any branch.
- The first \$225 of all checks deposited into your account.

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

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

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

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

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

- We believe a check you deposit will not be paid.
- You deposited checks totaling more than \$5,525 on any one day.
- You redeposit a check that has been returned unpaid.
- You have overdrawn your account repeatedly in the prior 6 months.
- There is an emergency, such as failure of communications or computer equipment.

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

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

- Funds from deposits of cash, wire transfers, and the first \$5,525 of a day's total deposits of cashier's, certified, teller's, traveler's, and federal, state, and local government checks will be available on the first business day after the day of your deposit if your deposit meets the conditions described above for accelerated availability of those types of deposits. The excess over \$5,525 will be available on the ninth business day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first \$5,525 will not be available until the second business day after the day of your deposit.
- Funds from electronic direct deposits (including ACH credits) are available on the day we receive them and process it for the purpose of paying checks you have written and that are presented for payment.

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

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

If we accept for deposit a check that is drawn on another bank, we may make funds from the deposit available for withdrawal immediately, but delay your ability to withdraw a corresponding amount on deposit in any other account you have with us. The funds in the other account would then not be available for withdrawal until the time periods that are described in the Funds Availability Policy.

(h) Cash Withdrawal Limitation: We place limits on withdrawals in cash. In general, \$225 of a deposit is available for withdrawal in cash on the first business day after the day of deposit. In addition, a total of \$450 of other funds becoming available on a given day is available for withdrawal in cash at or after 5:00 p.m. on that day. Any remaining funds will be available for withdrawal in cash on the following business day.

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

(8) The Process of Paying Checks: When you write a check on your account, or when you deposit a check into your account that is drawn on another bank, other banks participate in the collection and payment of the check. The Berkshire Bank is not responsible for actions taken by other banks, nor for the loss or destruction of any checks or other items that are not in our actual possession. If you deposit a check or other item that is not finally paid (*i.e.*, is bounced), we will deduct the unpaid amount from your account. We have the right to deduct the unpaid amount even if we have advised you that the check has “cleared” or that the funds are available for withdrawal. If the balance in your account is not enough to satisfy the deduction, you will remain responsible for the full amount of the item that is not paid even if we have already allowed you to withdraw or use that amount.

(9) Order of Payment and Return of Items: We deduct checks that you have written or electronic debits that you have initiated from your account on the business day that they are presented to us for payment. If more than one item is presented on the same business day, we deduct the items in the following order.

- First category: Any bounced checks, returned items, levies and executions, or similar items.
- Second category: Items cashed at our offices.
- Third category: Electronic debits such as ATM withdrawals and transfers, point-of-sale transactions with an ATM or debit card, and online banking transactions.
- Fourth category: ACH debits (including checks presented to us electronically as ACH debits).
- Fifth category: Other checks you have written on your account.
- Sixth category: All other deductions.

Within each category, deductions are made from the smallest to largest item.

To reduce the number of returned items on your account, we return items in the reverse order of the categories listed above from largest items to smallest items. You may, however, instruct us in writing, on or before the day an item is presented for payment, to honor any item or refuse to pay any item or check you write.

(10) Automated Clearing House Entries: From time to time, we may receive electronic directions to add to or subtract funds from your account, known as ACH credits and debits. All ACH credits and debits the Bank receives for your account will be subject to the terms of this Agreement, and the rules of the National Automated Clearing House Association and any other applicable ACH rules. You are bound by these rules. We can reverse any ACH deposit into your account until we receive the funds and the right of the sender to reverse the transaction expires. If we do not receive final payment, you must repay us the full amount of any temporary credit we give you for the transfer without prior notice or demand, and we may charge the amount to your account or obtain a refund from you. Unless required by law, we will not notify you of ACH transactions, other than on your next regular account statement. You may review ACH debits and other account activity through *BerkOnline*[®]. You authorize the Bank to pay ACH transactions presented to the Bank for payment against your account. The Bank reserves the right to require you to sign a separate authorization before honoring ACH transactions. Errors or unauthorized ACH transactions on consumer accounts are also subject to the rules described in Section H below.

(11) Overdrafts and Insufficient Available Balances: You must maintain a sufficient available balance in your account to cover the checks you write and items presented on your account, plus all other items received but not yet paid. Your account's available balance is our most current record of the amount of money in your account available for your use. It is your responsibility to avoid overdrawing your account. We may, in our discretion, pay (and create an overdraft by paying some or all of your items) or decline to pay (and return one or more of your items as unpaid) any item when it is presented if your available balance is less than the amount of that item. Our payment of any items or allowance of transactions that create overdrafts in no way obligates us to continue that practice at a later time. We may discontinue permitting overdrafts without cause or notice to you. We discourage the practice of overdrawing accounts. If your account is overdrawn, you must promptly make a deposit or a transfer to return your account to a positive balance. If you fail to bring your account to a positive balance or if you have excessive overdrafts (as determined by us), we may close your account. There is no automatic enrollment in any optional overdraft protection product. We require you to apply and be approved for this product. Our overdraft protection product protects you against overdrawing your account by automatically advancing funds in increments of \$1, from your overdraft protection line of credit up to the amount available on your approved line of credit. We may also refuse to pay any item for reasons including if there is a restraining order, injunction, levy, or execution against your account, or as otherwise set forth in this Agreement.

(12) Negative Balances: You must reimburse the Bank for any negative balance in your account, plus all fees, immediately upon demand. A negative balance could result from, among other things: (i) the payment of a check or other item that exceeds your account balance; (ii) other payments you authorize; (iii) deposits by you that are returned unpaid; (iv) claims by third parties against your account; (v) the paying bank or issuer of a check demands that we repay them because the check was altered, forged, or unauthorized, is missing a signature or endorsement, or has a forged endorsement; (vi) the sending bank or originator of an item demand that we return the item because it was unauthorized, sent to the wrong account number, or procured by fraud; (vii) service charges; or (viii) the Bank's exercise of its

right of set off against other money that you owe to the Bank. In addition to repaying any negative balance, you must pay all of the Bank's costs to collect the negative balance, including reasonable attorneys' fees.

(13) Notification of Excessive Levels of Overdrafts: The Bank monitors checking accounts that are overdrawn more than 6 times during a rolling 12-month period. If your account is within this category, you may receive a written notice from us. If your excessive overdrafts continue, we may call you to discuss the overdrafts and suggest that you enroll in a financial responsibility class, which the FDIC suggests. If you continue to overdraw your account in a manner that we consider excessive, we may close your account.

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

(15) Withdrawal Limitations: The Bank may refuse to allow you to withdraw funds from any account if the Bank has a good faith reason to do so, including, for example: (i) there is a dispute about the account or regarding the authority of anyone to transact business on the account; (ii) we received a legal garnishment, attachment, execution, court order, or other legal document that limits withdrawals; (iii) all or part of your account is pledged as collateral for a debt or is otherwise assigned; (iv) the Bank has taken the funds to repay a loan from the Bank or pay a debt to the Bank; (v) any required document that we require, or that the law requires, has not been presented to us; (vi) a depositor is deceased; or (vii) a deposit has not yet been collected or is not yet available for withdrawal.

(16) Withdrawals: We reserve the right to require that withdrawals be made only at the branch at which you maintain your account. We may require that you provide us with identification or other information acceptable to us before we permit a withdrawal. If you request to withdraw large amounts of cash, we may place reasonable restrictions on the time and method of your withdrawal and may require that you sign a document releasing us from any liability once you leave our office. We may refuse any withdrawal if you do not agree with these conditions.

(17) Postdated Checks: If the date on a check is later than the day you sign the check, the Bank may, at its option, either pay the check or return it unpaid. The Bank has the right to ignore the fact that the check is postdated and charge your account without being liable to you. The Bank is also not liable if it dishonors or returns other checks because it has paid a postdated check.

(18) Stale Dated Checks: If the date on a check is more than 6 months old, the Bank may pay the check and charge your account for it, regardless of how old it is, or dishonor the check. If we pay it, you are responsible for it.

(19) Restrictive Legends: You may not put a condition on any check which limits or conditions the right to receive payment. Examples include checks that contain a statement that the check is valid after a specified number of days, that the check is not valid for more than a specified amount, or that a check is not valid unless it has two signatures. We have no duty to discover, observe, or comply with these conditions, and may pay such check. If we pay a conditional check, the conditions do not apply to it.

(20) Cashing Items: The Bank may refuse to cash any check payable to you or indorsed to you and instead require you to deposit the check into your account. If we cash a check and it is later returned unpaid, we may deduct the amount from any of your accounts. The Bank may cash checks drawn by you

on your account when presented by the holder. If a payee or holder who is not a deposit account customer of the Bank presents a check drawn on your account that is otherwise properly payable for cash, we may refuse to cash the check, charge a check cashing fee, or impose additional requirements that we deem necessary or desirable. We may also require that they provide us identification we deem acceptable. If the person presenting the check fails or refuses to satisfy such requirements, our refusal to cash or otherwise accept the check will not be considered wrongful. Such requirements may include, but are not limited to, physical (*e.g.*, fingerprints) and documentary identification requirements, check cashing fees, requirements that such checks be cashed only at the branch where your account is assigned in our records, that the signature of the endorser be guaranteed by a financial institution acceptable to the Bank, or that the check must be endorsed in the presence of our personnel.

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

(22) Legal Process: If the Bank receives a claim against funds in your account or a third party dispute involving your account or concerning your account, such as a subpoena, restraining order, court order, administrative order, tax levy, execution, garnishment, writ of attachment, adverse claim, warrant, document discovery demand, or other compulsory legal process that we believe (correctly or otherwise) to be valid, or we know of or believe that there is a dispute over the ownership or control of funds in your account, we may place a hold on your account. We may notify you of the service of legal process in writing or by telephone, as permitted by law. A legal processing fee will be assessed to your account. You shall be liable for and shall pay to us, in addition to any other liability which may be established in such action, all of our court costs, document reproduction expenses, travel expenses, lost time of Bank's personnel due to appearing at any hearing, trial, deposition, or other legal proceeding and any other related expenses arising out of or related to any action or proceeding, and reasonable attorneys' fees in the prosecution or defense of such action. Such attorneys' fees shall include, in addition to fees incurred directly in such action or proceeding, any reasonable attorneys' fees incurred, before or after the commencement of such action or proceeding, and any expenses customarily billed by such attorneys. If we are not fully reimbursed for our time in researching our account records, photocopying, handling costs, and other expenses incurred by us by the party that served the legal process, we may charge such costs to your account, in addition to our standard legal processing fee. We may restrict the use of your account when we consider such action necessary to avoid a loss, or until we are satisfied that the dispute is settled. We may also close the account and send the balance to the accountholder of record, decide to rely on our current account records, require a court order to act, or take any other actions that we feel will protect us. We will not be liable to you for taking any such action. If we receive a levy, attachment, or other court process against you or another owner of the account, we may refuse to permit withdrawals or transfers from your account until the legal action is dismissed or satisfied. Any

levy, attachment, or other court process is subject to our rights of lien and set off. You are responsible for any losses, costs, or expenses that we incur as a result of any dispute or legal proceeding involving your account.

(23) Joint Account: An account maintained by two (or more) persons is a joint account with the right of survivorship, which means that on the death of one of the depositors, the remaining depositor(s) is entitled to the entire account. Either of you can control the account as if it were your own. All deposits and any additions such as interest shall become the property of each of you as joint tenants. Each of you authorizes the other to deposit checks payable to either of you or to both of you jointly to your account with or without an endorsement. If a deposited item is returned unpaid, each of you is liable to the Bank for the full amount regardless of who deposited or cashed the item. The Bank may accept instructions regarding the account from either of you without liability to the other joint tenant. If the Bank receives legal process against either of you individually, it may be required to remit all of the funds held in the joint account to a third-party judgment creditor. The Bank is authorized by both of you to charge the joint account up to the full balance in the account to satisfy any debt (including an overdraft on any other account, or a lien or set off) owed to the Bank or third-party judgment creditor by either of you, even though only one of you is liable for the amount or caused or benefited from the overdraft, and we do not determine net contributions to the account. If either of you provides the Bank with a signed written request not to pay or release any funds in the account, the Bank may require the written authorization of both of you before paying or releasing any funds from the account. Upon the death of either of you, the Bank may treat the account as the sole property of the survivor. In such event, the Bank may, at its option, honor checks or other withdrawal requests from the survivor. However, the Bank may require the survivor to produce certain legal documents releasing the funds on deposit.

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

(25) In Trust For Account: If you establish or maintain an account in your name that is designated in the account title that it is in trust for ("ITF") one or more beneficiaries, without presenting formal trust papers, you may make deposits, withdrawals, change, add, or remove beneficiaries, or close the account at your discretion during your lifetime. Your Social Security number must be used for income tax reporting. The beneficiary designated on our records has no rights to the account until the death of all owners of the ITF account and cannot make any withdrawals or account changes so long as you are

alive. If we receive proof that you (or the last surviving co-owner of a joint account) have died, we will pay the balance of the account to the beneficiary or beneficiaries you designated on the signature card you executed for the account.

(26) Uniform Transfers to Minors Account: If you open an account for a minor under the Uniform Transfers to Minors Act (“UTMA”), then you, as custodian, control and manage the account until the minor reaches the age of majority, but the designated minor is the owner of the funds in the account. The Social Security number of the minor is to be used for income tax reporting. We may limit transactions on the account if you fail to transfer the funds to the beneficiary as required by applicable law.

(27) Accounts of Deceased Persons: In case of the death of an account owner, we will continue to honor checks written on that account or other withdrawal requests until we are notified of the death. After we receive actual written notice of your death, the Bank may pay all checks drawn on the account for up to 10 business days after notification. The Bank may require that documents designed by it be presented before funds in the account can be withdrawn.

(28) Stop Payments: You may instruct the Bank to stop payment on a check drawn on your account that has not been paid. A stop payment order will not be effective unless the Bank has a reasonable opportunity to act on the stop payment order before the check is paid. To stop payment, you must provide us, among other information, your account number, the check number, the date the check was written, the name of the payee, and the exact amount of the check. We are not responsible for stopping payment on a check if you do not provide this information or if you provide inconsistent information. Oral stop payment orders expire after 14 days, unless you confirm the order in writing within that period. A written stop payment order is effective for 6 months, unless you renew the order in writing. The Bank may stop payment on a Bank official check, but it is not required to do so, if you provide all the documents and information that we require, including a sworn statement, in a form we deem acceptable, and a surety bond for twice the amount of the check.

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

(30) Inactive or Abandoned Accounts: If your account has no activity other than charges assessed or interest credited by us for a period of at least 2 years, we may restrict your ability to access funds in your account unless you come to one of our offices and verify that the restriction should be removed. Generally, state law requires the Bank to send to the applicable state as abandoned property the funds on deposit when there have been no transactions by you, or written communication from you, for a given number of years. The applicable state is generally the state of your last known address, as shown on our records, or the state of the Bank address where your account is maintained, if your address is outside the United States. You can prevent this turnover by making a transaction on your account or by notifying us in writing that you know your account still exists at the Bank. Before the turnover, we may try to contact you to reactivate your account. After the turnover, rightful claimants must make their claims for the funds directly to the applicable state. We may charge your account for expenses incurred in remitting funds to any state. These charges are nonrefundable.

(31) Indemnity: If the Bank follows your instructions on any matter, including, without limitation, honoring any check you write or refusing to pay any check on which you stop payment, you indemnify and hold the Bank harmless from any damages or claims by anyone, including the costs of defense and legal fees that may result because the Bank followed your instructions. The Bank may refuse to follow your instructions, or may require a surety bond or other protection in a form and amount satisfactory to the Bank before following the instructions, if the Bank has any reason to believe that following your instructions may expose the Bank to any risk or liability.

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

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

(34) Duty to Inspect Statements and Advices: The Bank may, from time to time, send advices and statements to you (or hold them pursuant to your instructions) which will contain a record of transactions (including service charges) during that statement period. If you do not receive any statement within 15 days of its normal date of receipt, you must notify us immediately and if you fail to do so, you will be deemed to have waived any claim on any matter shown in the statement. You must promptly and carefully examine the statements or advices and reconcile all advices, statements, and checks, images, or transfers and notify us in writing of any errors, discrepancies, or irregularities in any transaction or that a deposit was not properly credited to your account. You must notify us in writing within 60 days after the advice or statement is transmitted or otherwise mailed to you or made available to you, including availability on *BerkOnline*®. If you do not provide us such notice, the statement will be deemed correct and binding upon you and we will be released from all liability to you. You must provide us with all information we request for us to investigate the alleged error or unauthorized item. You may not commence any legal proceedings or action against the Bank for any claim which you may have regarding any of your accounts, including, but not limited to, errors, discrepancies, or irregularities unless: (i) you have given the written notice described above; and (ii) such legal proceeding or action is commenced within one year after the date when the statement or advice reflecting or omitting the transaction giving rise to the claim was mailed or made available to you.

There are special rules applicable to errors related to electronic transactions on consumer accounts. We describe those rules in Section H below. Please review those rules carefully. If there is any conflict between those rules and the rules stated in this Section A 34, the rules in Section H apply.

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

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

(37) Electronically Created Items or Remotely Created Checks: The Bank occasionally receives items generated by third parties for payment against your account that do not bear your signature. If you provide information about your account, such as our bank routing number and your account number, to a party seeking to sell you goods and services, and you do not physically deliver a check to that party, any debit to your account initiated by that party to whom you provided the information is deemed authorized, and the Bank may pay such items if presented for payment against your account. The Bank may refuse to honor these items. The Bank reserves the right to require you to sign a separate authorization before honoring these items.

(38) Facsimile Signatures: If you use a facsimile signature and do not provide your personal signature on a check, you shall have the sole responsibility for monitoring the security of any such computer, stamp, or device by which your signature is affixed and that you shall bear the entire risk of unauthorized use of any such device or of any facsimile signature that reasonably resembles the signature that you use, whether or not you are negligent. We may accept any check presented against your account through the use of such a service, device, or facsimile signature that reasonably resembles the signature that you use, and our rights and obligations with regard to such check will be the same as if the check was signed or initiated personally by you. The Bank may refuse to honor such items unless you provide us with a separate facsimile signature authorization.

(39) Multiple Signatures: We do not provide multiple signature verification services for accounts. We have no duty to visually inspect signatures on checks to determine whether multiple signatories have executed a check. We may debit your account based on a single signature of an authorized accountholder. We are not required to comply with any multiple signature requirement, either on personal or business accounts, even if the signature card specifies that multiple signatures are required or you have otherwise instructed us to do so. Any multiple signature requirement that you adopt is for your internal control purposes only.

(40) Telephone Communications: For our mutual protection and to enable us to provide better service to you, we may monitor or record any of our telephone conversations with you. If we do record, we do not have to keep the recordings, unless required by law. When you give us your mobile phone number, you authorize us to contact you at that number concerning all of your accounts. Your consent allows us to use text messaging, artificial or pre-recorded voice messages, and automatic dialing technology for

account service calls, but not for telemarketing, sales calls, or debt collection, notwithstanding any state or federal law or regulation that would otherwise prevent us from telephoning you. For your convenience, we may ask you to respond to our texts to you to authenticate items debited from your accounts that suggest a risk of fraud or identity theft, possible breaches of your personal information, steps you can take to prevent or remedy harm caused by data security breaches, or actions needed to arrange for receipt of pending money transfers.

(41) Telephone, Facsimile, and E-Mail Instructions: The Bank may honor any instructions we receive verbally by telephone or in writing transmitted by facsimile, e-mail, or other electronic means, if we reasonably believe such instructions to be genuine, but we are not required to do so. We may refuse to honor those instructions at any time in our sole discretion. We may verify such instructions by voice verification or telephonic call back confirmation with an individual purporting to be a person reflected on our records as having authority to initiate the transaction, or instead, in our sole discretion, we may delay in acting on such instructions until we receive written confirmation, signed instructions, or original documents. Any instruction that is given by a person that (i) you authorize to take action on the account will be valid, or (ii) by someone else at the direction of that authorized person, will be binding on you and you will be bound by any instruction, even if you do not authorize it, to the extent that you receive the benefit of the instruction.

The Bank will use its best efforts to execute transfer requests by the end of the business day the Bank receives a completed request if the request is received before noon. Transfer requests received after noon may not be executed until the following business day. You authorize the Bank to record electronically any telephonic instructions received by the Bank; however, the Bank has no duty to record any such instructions.

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

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

(44) BerkOnline®: The Bank's *BerkOnline*® online banking service allows you to obtain account balances and other information, download account information, transfer funds between linked accounts, place stop payment orders on checks, place new orders and reorders of checks, and contact us by e-mail. The Bank requires you to agree to the *BerkOnline*® terms and conditions by signing a separate agreement and by agreeing to online terms and conditions before using this service. After you are enrolled in *BerkOnline*®, you are able to enroll in additional, separate online services that are governed by separate online agreements, including Mobile Banking, BerkDeposit, Bill Pay, Remote Deposit Capture, and Zelle®. If a service we offer has a separate agreement, and there is a conflict between the terms of this Agreement and the separate agreement, the terms of the separate agreement will apply.

(45) Positive Pay: The Bank's positive pay service is a data matching service and a tool that business account customers may select for eligible checking accounts to help you manage and control risks

associated with the payment of items presented against your account through the normal interbank clearing process, by enabling you to detect and prevent check fraud by identifying Items presented for payment to the Bank that you did not issue or authorize and to decide which discrepant items are to be paid or returned unpaid. You agree if the Bank offers you its positive pay service or other commercially reasonable security procedures designed to safeguard your account and you choose not to enroll in those services, you agree to assume all of the risks associated with the payment of all items drawn or presented for payment on your account.

(46) Debit Card: The Bank's debit card allows you to withdraw cash, transfer funds between linked accounts and check account balances at an ATM. It also allows you to purchase goods and services at merchants that accept debit cards. By opening or maintaining a consumer account at the Bank, you authorize the Bank to provide all eligible signatories on the account with a separate debit card. For non-consumer accounts, by opening or maintaining a non-consumer or business account at the Bank, you authorize the Bank to provide you with one debit card. Business debit cards issued to non-consumer accounts (including business accounts and accounts for sole proprietors) are not covered under the Electronic Fund Transfer Act or Regulation E. Your debit card is the property of The Berkshire Bank. We may cancel or suspend your debit card or debit card banking access at any time without notice to you. We may decide not to issue a debit card to you or to replace your debit card.

(47) Assigning Your Account: You may not assign your account to a third party. Any assignment is void. You may pledge your account as collateral for a debt only if approved by the Bank in advance in writing.

(48) Power of Attorney: If you want anyone to conduct any transaction on your account using a power of attorney ("POA"), you must provide a copy of the POA to us at least 10 business days in advance. We may accept the POA, but we reserve the right to refuse to accept the POA for any reason, unless applicable law limits our ability to refuse to accept a POA. We may require the agent to provide us with a full force affidavit before accepting a POA. If we accept a POA, we may continue to rely on it until we receive written notice that the POA is no longer effective and we have a reasonable time to act on it.

(49) Internet Gambling: The Unlawful Internet Gambling Enforcement Act prohibits any person engaged in the business of betting or wagering from knowingly accepting payments in connection with the participation of another person in unlawful internet gambling. You may not conduct any transactions through your account or banking relationship with us if they involved participation in unlawful Internet gambling. If you engage in an internet gambling business and open an account with us, you must provide evidence of your legal capacity to maintain your account.

(50) Politically Exposed Person: You must advise the Bank if you are, or become, a politically exposed person ("PEP") or a senior foreign political figure ("SFPF"), or whether you, or a beneficial owner of an account or a legal entity customer, may be considered a PEP or an SFPF, or controlled by a PEP or an SFPF. The Bank reserves the right to not open or maintain accounts for a PEP or an SFPF. PEPs are individuals who are, or have been, entrusted with prominent public functions by a foreign country, domestically, or by an international organization, such as heads of state or of government, senior politicians, senior government, judicial, or military officials, senior executives of state-owned corporations, important political party officials, and senior management of an organization, and their family members who are related directly or through marriage or similar forms of partnership, and close associates, socially or professionally. An SFPF is a subset of a PEP and refers to a current or former senior official in the executive, legislative, administrative, military, or judicial branches of a foreign government, whether or not they are or were elected officials; a senior official of a major foreign

political party; or a senior executive of a foreign government-owned commercial enterprise; a corporation, business, or other entity that has been formed by, or for the benefit of, any such individual; an immediate family member of any such individual; and a person who is widely and publicly known, or is actually known by the Bank, to be a close associate of such individual. An SFPF includes an individual with substantial authority over policy, operations, or the use of government-owned resources, and includes spouses, parents, siblings, children, and a spouse's parents and siblings.

(51) Termination of Account: You may close your account at any time (except as otherwise stated in this Agreement). We reserve the right to refuse to open or renew an account or accept further deposits in any account. We also reserve the right to close your account at any time for any reason or for no reason and without providing you with prior notice. We shall not be liable for any damages because we close your account. If we close your account, we will send you a check for your final balance, if any, minus applicable service fees, including set offs or other amounts you owe us. We will return (bounce) any checks presented after your account is closed unpaid. We have no liability for refusing to honor any check that is not presented for payment before the account is closed, regardless of when the check was written. We may automatically close your account if the balance is \$0, without prior notification to you. If you do not want us to close your zero-balance account, you must notify us in writing before this occurs. We have the right to advise consumer reporting agencies and other third-party reporting agencies of if we close your account for misuse.

(52) Consumer Reports: By signing a signature card or opening an account, you authorize the Bank to obtain credit reports and employment verifications on you and to obtain new or updated credit reports in the future to review your account. You have the right to ask whether we obtained a credit report and, if so, the name and address of the consumer-reporting agency which gave the report.

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

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

(55) Liability: Except as required by law, the Bank shall not be liable for any damages, unless such damages are the direct result of the Bank's gross negligence or willful misconduct. **The Bank will not be liable for indirect, special, or consequential damages, even if the Bank has been advised of the possibility of such damages.** In the event of the Bank's failure to stop payment on an item when a proper stop payment order is received and the Bank has a reasonable time to act on it, or if the Bank pays any item bearing an unauthorized signature, forgery, or alteration, the Bank's liability, if any, shall be limited to the face amount of the item.

(56) Jurisdiction and Venue: Any action against the Bank arising from or relating to your accounts or services provided to you by the Bank must be brought by you in state or federal court located in the State of New York, County of New York. In addition, you consent to the jurisdiction and venue of the state and federal courts located within the State of New York, County of New York, for all claims made by the Bank against you arising from or relating to your account or the services provided by the Bank. Subject to the requirements for a case to be heard in the Commercial Division of the Supreme Court of the State of New York, you agree to submit to the exclusive jurisdiction of the Commercial Division, New York State Supreme Court, New York County, and to the application of the Court's accelerated

procedures, in connection with any dispute, claim, or controversy arising out of or relating to any deposit account that you have with the Bank or any other transaction or loan involving the Bank, or the enforcement thereof, unless some other agreement expressly provides otherwise. If, for any reason, the accelerated procedures of the Commercial Division of the New York State Supreme Court are not otherwise binding on you including, without limitation, in legal actions pending in any other court or in any legal action in which the amount in controversy is less than the jurisdictional minimum for the Commercial Division, then you agree that the discovery limitations applicable in such accelerated procedures including, without limitation, the limitation on the number, nature, amount, or length of discovery procedures and the time period during which they must be conducted shall apply to any dispute, claim, or controversy between you and the Bank.

SECTION B - Checking, Money Market, NOW, and Savings Accounts

(1) Minimum to Open: There is a required minimum initial deposit to open each account. Please refer to the accompanying Schedule of Fees and Service Charges for the current minimum deposit, but the minimum may change at any time in the future for new accounts that you may open.

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

(3) Interest Rate: For interest-earning accounts, the interest rate is the annual simple interest rate the account will earn without regard to compounding, shown as an annual figure (365/365). The Bank may change the interest rate(s) it pays on these accounts at any time, without notice to you. Interest rates may change daily. From time to time, we may establish, change, or eliminate balance levels required to earn different rates of interest, including variable or tiered rates. The initial interest rate in effect when you open your account is stated on the Rate Sheet that is available upon request. That interest rate is effective only when the Bank changes it.

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

(5) Interest Compounding Period: Interest is compounded daily and computed on a 365-day basis for the actual number of days your money is on deposit. (During leap years, we will use a 366-day basis.)

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

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

(8) Earning Interest: Deposits to interest-earning accounts begin to earn interest on the business day that the Bank receives credit for the deposit if we receive it by 3:00 p.m. on that day. If received after 3:00 p.m. or on a non-business day, it will begin to earn interest on the following business day. Deposits made in person at a teller, by mail, or at an ATM that we own are deemed received when presented to the teller, when we receive the mail, or when deposited at an ATM and you receive a receipt for the deposit. Deposits made remotely, such as by a remote deposit capture scanner or by a mobile device,

are deemed received when we receive the electronic image and you satisfy all of the other requirements of our system for the remote electronic deposit. We reserve the right to begin to pay interest earlier than as described in this Section B 8 in our sole discretion. Deposits do not earn interest on the day of withdrawal. We reserve the right, without notice, not to pay interest on any deposited item that is returned to us unpaid.

(9) Withdrawals and Other Features:

(a) Regular Checking, Blue Ribbon Checking, and 60 & Better Checking: You may make withdrawals or transfers by ATM, by using a withdrawal slip at the Bank, or by writing a check. Additional requirements for these accounts are contained in the accompanying Schedule of Fees and Service Charges.

(b) NOW Checking: You may make withdrawals by issuing negotiable orders of withdrawal. These are similar to checks and for the purposes of this Agreement will be called "checks." Additional requirements for these accounts are contained in the accompanying Schedule of Fees and Service Charges.

(c) Super Security Checking: In order to open a Super Security checking account, you must receive monthly Social Security direct deposits. If the account does not receive Social Security direct deposits for two consecutive months, the account will be changed automatically to a regular NOW checking account without notice.

(d) E-Z Checking: You must be enrolled in our E-Statement Program within 30 days of opening your account, which provides for electronic delivery of your account statements, to be eligible for E-Z Checking. If you cancel your E-Statement enrollment for the account, the account will be changed automatically to a Regular Checking account without notice.

(e) Ultimate College Checking: In order to open an Ultimate College Checking account, you must provide proof that you are a college student or graduate school student with a valid student identification card or proof of enrollment. You must also be between the ages of 18 and 24. Within 30 days following your 25th birthday, your Ultimate College Checking account will be changed automatically to a Regular Checking account without notice.

(f) Gold Money Market: In order to open a Gold Money Market account, you are required to deposit new money into your account, which means funds that were not on deposit at the Bank for at least the past 30 days. Withdrawals from a Gold Money Market account may not be made using an ATM or debit card. A Gold Money Market account is a tiered rate interest account, with no interest earned on balances from \$0 to \$2,499.99; standard interest will be earned on balances from \$2,500 to \$19,999.99; and premium rate interest will be earned on balances of \$20,000 and over.

(g) Money Market, Blue Ribbon Savings, Statement Super Savings, and Statement Savings: There may be additional requirements for these accounts that are contained in the accompanying Schedule of Fees and Service Charges.

(h) Passbook Savings: You are required to present your passbook to the Bank to make withdrawals from a Passbook Savings account. No ATM transactions or ACH or electronic debits are permitted.

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

SECTION C - Certificates of Deposit

(1) Minimum to Open: Please refer to the accompanying Schedule of Fees and Service Charges for the minimum balance to open, maintain, or renew a Certificate of Deposit ("CD"). Additional deposits to CDs are not permitted during the term of a CD.

(2) Interest Rate: The interest rate on your CD is determined by the Bank when you open the CD. The interest rate is shown on the Rate Sheet that is available upon request, or the CD Confirmation provided to you. Your CD will earn interest at that rate until its maturity date. The Bank will provide details on the interest rate and annual percentage yield on your CD, how the interest rate is determined, the frequency of rate changes, if any, and any limitations on the amount that the interest rate may change.

(3) Interest Computation Method: Interest on CDs is compounded daily on a 365-day basis using the daily balance method for the actual number of days your money is on deposit. (During leap years, we will use a 366-day basis.) Interest on CDs is computed from the business day of your deposit to, but not including, the maturity date. The daily balance method applies a daily periodic rate to the principal (plus compounded interest, if any) in the account each day. The daily periodic rate is equal to the interest rate divided by 365. Daily compounding of accrued (but not yet credited) interest is applied at the end of each day.

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

(5) Term and Maturity Date: A CD is a deposit account for a specified period of time. The term of the CD begins on the date you deposit the funds and ends on the maturity date, which is the last day of the period for which you have agreed to leave the money on deposit. If the maturity date falls on a Saturday, Sunday, or holiday, the next business day becomes the maturity date. The Bank will mail you a maturity notice 30 days prior to the maturity date of your CD. (No notice will be provided for any CD that has a term that is less than 30 days.) After termination of your CD and you choose not to renew your CD, we will pay your deposit to you by check or transfer the funds to another account at the Bank. If your entire deposit to the CD was by wire transfer, at your written request, we will pay the funds to you by wire transfer.

(6) Automatic Renewal: CDs will be renewed automatically on the maturity date for the same term as the original CD, and all terms of the CD will be the same, except that the interest rate will be our rate in effect for new CDs on the maturity date which have the same term, minimum or maximum balance requirements, if any, and other features of your original CD. If we no longer offer CDs with the same period to maturity, we will renew your CD for a term we offer that comes closest to the prior term without exceeding it. You may prevent renewal of your CD if you withdraw the funds from your CD at maturity, or if we receive written notice from you before maturity, or during the applicable grace period, of your intention not to renew your CD. You will have the applicable grace period after such renewal to withdraw your funds without penalty. If your CD has a special CD rate, that rate applies only to the initial CD term. At the time of renewal, your CD will be renewed for the same term at the standard (non-special) interest rate in effect on the renewal date. If we elect not to renew your CD for any reason, your

funds will be placed in an interest-bearing account. The Bank reserves the right not to renew your CD or to renew for a longer or shorter period.

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

(8) Paying Interest: You may choose to reinvest your interest in a renewed CD at maturity or have your interest credited to your checking, money market, or savings account at maturity. You may choose to have your interest paid by check to you each month, provided that your CD has a minimum balance of \$50,000 and a minimum term of 12 months. A withdrawal of interest will reduce earnings.

(9) Early Withdrawal Penalty: When you open a CD, you agree to keep the principal on deposit with us for the term that you have selected. We will impose a substantial penalty if we permit you to withdraw any principal before the maturity date. The early withdrawal penalty will be one-half ($\frac{1}{2}$) the interest that would be due on the CD over the entire term of the CD, regardless of the length of time the funds remained on deposit, subject to the following limits. The minimum penalty is 7 days simple interest. The maximum penalty is 270 days of compound interest. It is possible that all or part of the penalty will be deducted from principal. No early withdrawal penalty will be assessed if the withdrawal is made because of your death or a court determination of your legal incompetence. We require proof of death or incompetence before an early withdrawal penalty is waived.

SECTION D - Individual Retirement Accounts

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

SECTION E - Basic Banking Accounts

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

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

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

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

(5) Limit on Withdrawals: You may make unlimited withdrawal transactions at no additional charge. Withdrawals include in-person withdrawals by withdrawal slip, checks, and withdrawals made using a Berkshire Bank ATM. An additional charge will apply for withdrawals made at a non-Berkshire Bank ATM, and point of sale (POS) transactions exceeding 50 per month. A withdrawal is deemed to be made

when it is recorded on our books, which is not necessarily the date on which you initiated the transaction.

(6) Deposits: You may make unlimited deposits without incurring any additional charge.

(7) Other Fees: Fees and charges for other services that are not specified in this Section E will be charged to your account to the same extent that we charge our other consumer transaction accountholders for such services, such as charges for printing checks, and bounced checks. Refer to the Schedule of Fees & Service Charges.

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

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

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

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

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

(e) By signing a signature card when you open a Basic Banking Account, you acknowledge that we furnished and you received the written disclosure contained in this Section E describing the terms and features of the Basic Banking Account and any other disclosures as are customarily given in connection with the opening of other consumer transaction accounts offered by us.

SECTION F - General Rules for Consumer and Commercial Funds Transfers

This section applies to all electronic deposits, electronic payments, wire transfers, and other EFTs affecting your account. We describe your additional rights and obligations regarding Consumer EFTs in Section H. If there is a conflict between this section and Section H as to Consumer EFTs, Section H will govern. This section applies to transfers based on instructions received from you, or anyone else authorized on your signature card, or anyone else you authorize to conduct any transaction.

In this Section G the term “payment order” means an instruction to us to pay, or to cause another bank to pay, money to a third party, known as the “beneficiary” of the payment order.

You agree to indemnify and hold harmless the Bank from and against any and all claims, demands, expenses (including, but not limited to, attorney’s fees and costs), losses, or damage of any nature whatsoever, unless caused by gross negligence of the Bank, arising directly or indirectly from any payment order that you or your authorized representative initiates pursuant to this Agreement.

You may not reverse, adjust, or cancel a payment order after we receive it, unless we agree to do so in our sole discretion. In the case of an erroneous or otherwise irregular transfer of funds out of your account, the Bank may, but shall not be obligated to, request the transferee to return the funds. A payment order is charged against your account when we make the transfer.

The Bank reserves the right to utilize any funds transfer system of the Bank's choosing and any intermediary bank to be used in the execution of any payment order and the Bank may otherwise use any other means of executing the payment order which the Bank deems reasonable.

If a payment order is in a currency other than the U.S. dollar, the Bank will charge your account for the U.S. dollar equivalent of the amount of the foreign currency that you request be transferred at the Bank's then prevailing rate of exchange or as we otherwise agree with you in writing. In processing your payment orders, other banks may deduct their fees from the payment orders and those fees will be your responsibility. If the beneficiary's bank is instructed to pay the beneficiary in a currency other than its local currency, payment may be made by the beneficiary's bank at whatever rate of exchange it uses on the date of its payment. You will be responsible for complying with all local currency restrictions and any other local laws governing the transaction.

In accepting a payment order, the Bank may rely upon the identifying number (such as Fedwire routing number or account number) of the beneficiary, the beneficiary's bank, or any intermediary bank and use only those numbers in executing the order. Similarly, the beneficiary's bank may pay the payment order based on the account number you provide in the payment order even though the owner or holder of that account is different from the named beneficiary. We do not verify that there are no discrepancies between any identifying number and any associated name. Any discrepancy is entirely your responsibility. You are responsible for any inconsistency between any name and identifying number in a payment order you give to us. Therefore, you are responsible to make sure that the identifying number you include on any payment order is correct.

The Bank may elect not to act on a payment order if the Bank thinks that the refusal is appropriate, in its sole discretion. For example, and only as examples, the Bank may decide not to act on a payment order if we are unable to obtain satisfactory verification of the payment order; if any inconsistency appears between the payment order and any information that the Bank has; or if the payment order is not given in accordance with the Bank's customary procedures.

The Bank is not required to notify you of any incoming funds transfer that is deposited into your account, other than to include the amount in your next regular account statement. You may not withdraw such funds until the Bank receives payment from the sending bank.

SECTION G - Consumer Electronic Fund Transfer Act Disclosures

This Section H applies to Consumer Electronic Fund Transfers governed by Regulation E.

NOTICE IF YOU LOSE YOUR ACCESS DEVICE OR IF YOU THINK THERE IS AN UNAUTHORIZED ELECTRONIC FUND TRANSFER

Tell us AT ONCE if you believe your ATM, debit card, or personal identification number ("PIN") has been lost or stolen, or if you believe that an EFT has been made without your permission. Telephoning is the best way of keeping your possible losses down. You could lose all the money in your account (plus your maximum overdraft line of credit). If you tell us within 2 business days after you learn of the loss or theft of your **ATM, debit card, or PIN**, or other transfer without your permission, you can lose no more than \$50 if someone used your **ATM, debit card, or PIN** without your permission or made any other transfer without your permission.

If you do NOT tell us within 2 business days after you learn of an unauthorized EFT, or within 2 business days after the loss or theft of your **ATM, debit card, or PIN**, and we can prove we could have stopped someone from using your **ATM, debit card, or PIN** without your permission, or making any other unauthorized EFT covered by this Section, if you had told us, you could lose as much as \$500.

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

If you believe your **ATM, debit card, or PIN** has been lost or stolen, or if you are aware of any unauthorized transfer, call us at (212) 785-8499 or (845) 294-6151, or write to us at The Berkshire Bank, Operations Department, 5 Broadway, New York, New York 10004.

You should also call the number or write to the address listed above if you believe a transfer has been made using the information from your check without your permission.

For purposes of these disclosures, our business days are Monday through Friday, excluding federal holidays.

Transfer types and limitations

(1) Account access. You may use your **ATM, debit card, or PIN** to:

- Withdraw cash from your checking or savings account.
- Make deposits to your checking or savings account.
- Transfer funds between your checking and savings accounts whenever you request.
- Pay for purchases at places that have agreed to accept **ATM, debit card, or PIN**.
- Pay bills directly by telephone from your checking or savings account in the amounts and on the days you request.

Some of these services may not be available at all terminals.

(2) Electronic check conversion. You may authorize a merchant or other payee to make a one-time electronic payment from your checking account using information from your check to:

- Pay for purchases.
- Pay bills.

(3) Limitations on frequency of transfers. For security reasons, there are limits on the number of transfers you can make.

(4) Limitations on dollar amounts of transfers. For security reasons, we place daily dollar limits on ATM withdrawals and debit card purchases.

Fees

Service charges for Consumer EFTs are listed on the accompanying Schedule of Fees and Service Charges. Other normal bank fees will also apply. Please note that when you use an ATM not owned by us, you may be charged a fee by the ATM operator or any network used and you may be charged a fee for a balance inquiry even if you do not complete a funds transfer. When you use an ATM not owned by us, you may be charged a fee by the ATM operator or any network that the operator uses and they may charge you a fee for a balance inquiry even if you do not complete a fund transfer.

Confidentiality

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

- Where it is necessary for completing transfers.
- In order to verify the existence and condition of your account for a third party, such as a credit bureau or merchant.

- In order to comply with government agency or court orders.
- If you give us your written permission.

Documentation

(1) Terminal transfers. You can get a receipt at the time you make any transfer to or from your account using one of our ATMs.

(2) Preauthorized credits. If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you can call us at (212) 785-8499 or (845) 294-6151 to find out whether or not the deposit has been made.

(3) Periodic statements. You will get a monthly account statement.

(4) Passbook account where the only possible EFTs are preauthorized credits. If you bring your passbook to us, we will record any electronic deposits that were made to your account since the last time you brought in your passbook.

Preauthorized payments

(1) Right to stop payment and procedure for doing so. If you have told us in advance to make regular payments out of your account, you can stop any of these payments. Here's how: Call us (212) 785-8499 or (845) 294-6151, or write to us at The Berkshire Bank, Operations Department, 5 Broadway, New York, New York 10004, in time for us to receive your request 3 business days or more before the payment is scheduled to be made. If you call, we may also require you to put your request in writing and get it to us within 14 days after you call. We will charge you a fee for each stop-payment order you give. The amount of the fee is shown on the attached Schedule of Fees and Service Charges.

(2) Notice of varying amounts. If preauthorized transfers from your account may vary in amount, the person you are going to pay will tell you, 10 days before each payment, when it will be made and how much it will be. You may choose instead to get this notice only when the payment will differ by more than a certain amount from the previous payment, or when the amount would fall outside certain limits that you set.

(3) Liability for failure to stop payment of preauthorized transfer. If you order us to stop one of these payments 3 business days or more before the transfer is scheduled, and we do not do so, we will be liable for your losses or damages.

Financial institution's liability

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

(1) If, through no fault of ours, you do not have enough money in your account to make the transfer.

(2) If the transfer would go over the credit limit on your overdraft line.

(3) If the ATM where you are making the transfer does not have enough cash.

(4) If the terminal or system was not working properly and you knew about the breakdown when you started the transfer.

(5) If circumstances beyond our control (such as fire or flood) prevent the transfer, despite reasonable precautions that we have taken.

(6) There may be other exceptions stated in our agreement with you.

Error resolution notice

In case of errors or questions about your electronic transfers, call us at (212) 785-8499 or (845) 294-6151, or write to us at The Berkshire Bank, Operations Department, 5 Broadway, New York, New York 10004, as soon as you can, if you think your statement or receipt is wrong, or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than 60 days after we sent the FIRST statement on which the problem or error appeared.

(1) Tell us your name and account number.

(2) Describe the error or the transfer you are unsure about and explain as clearly as you can why you believe it is an error or why you need more information.

(3) Tell us the dollar amount of the suspected error.

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

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

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

SECTION H - Banking by Telephone

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

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

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

The Bank may discontinue allowing customers to transfer funds by telephone without notice. You authorize the Bank, at its option, to record telephone calls in order to provide a record of telephone instructions received by the Bank, but the Bank is not required to do so.

If you wish to change your PIN, please contact the Bank. A change may take 2 business days from the receipt of your request.

SECTION I - Substitute Checks and Your Rights

What is a substitute check?

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

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

What are my rights regarding substitute checks?

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

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

If you use this procedure, you may receive up to \$2,500 of your refund (plus interest if your account earns interest) within 10 business days after we received your claim and the remainder of your refund (plus interest if your account earns interest) not later than 45 calendar days after we received your claim.

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

How do I make a claim for a refund?

If you believe that you have suffered a loss relating to a substitute check that you received and that was posted to your account, please call us at (212) 785-8499, or write to us at The Berkshire Bank, Operations Department, 5 Broadway, New York, New York 10004. You must contact us within 40 calendar days of the date that we mailed (or otherwise delivered by a means to which you agreed) the substitute check in question or the account statement showing that the substitute check was posted to your account, whichever is later. We will extend this time period if you were not able to make a timely claim because of extraordinary circumstances.

Your claim must include:

- A description of why you have suffered a loss (for example, you think the amount withdrawn was incorrect).

- An estimate of the amount of your loss.
- An explanation of why the substitute check you received is insufficient to confirm that you suffered a loss.
- A copy of the substitute check and the following information to help us identify the substitute check (such as the check number, the name of the person to whom you wrote the check, and the amount of the check).

SECTION J - USA PATRIOT Act Notice

To help the government fight the funding of terrorism and money laundering activities, federal law requires us to obtain, verify, and record information that identifies each person that opens an account or is a beneficiary on an account. What this means to you: When you open an account, we will ask for your name, residential address, date of birth, Social Security number, and other information that will allow us to verify your identity and the identity of any beneficiaries on the account. We will also ask to see and photocopy 2 forms of unexpired identification such as your driver’s license or other identifying documents.

SECTION K - Privacy Policy

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

Reasons we can share your personal information?	Does The Berkshire Bank share?	Can you limit this sharing?
For our everyday business purposes –	Yes	No

Such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus		
For our marketing purposes – To offer our products & services to you	Yes	No
For joint marketing with other financial companies	No	N/A
For our affiliates’ everyday business purposes – Information about your transactions & experiences	Yes	No
For our affiliates’ everyday business purposes – information about your creditworthiness	No	N/A
For our affiliates to market to you	No	N/A
For our non-affiliates to market to you	No	N/A

Questions?	Call your branch or visit our website at www.berkbank.com
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Who we are	
Who is providing this notice?	The Berkshire Bank

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

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

September 2024

Member FDIC

