

## BILT Consumer Credit Card Agreement

There are two parts to this Credit Card Agreement (the "Agreement"): **Rates and Fees Table** and **Consumer Card Agreement**. The **Rates and Fees Table** shows the rates and fees for your credit card. The Agreement contains important information related to your credit card issued by Evolve Bank & Trust. Bank has agreed to lend you money as described in this Agreement, and you agree to pay us back together with interest charges and fees. Your use or activation of the Card and any transaction using the Card or Account indicates your acceptance of the terms of this Agreement. If any fee in the Rates and Fee Table is marked "none," the section of this Agreement that relates to that fee does not apply.

Rate and Fees Table	
Interest Rates and Interest Charges	
<b>Annual Percentage Rate (APR) for Purchases</b>	14.99% - 29.99%.
<b>APR for Cash Advances</b>	<b>25.0% - 29.99%.</b>
<b>Paying Interest</b>	Your due date is at least 15 days after the close of each billing cycle. We will not charge interest on new purchases, provided you have paid your previous balance in full by the due date each month. We will begin charging interest on cash advances on the transaction date.
<b>Minimum Interest Charge</b>	None.
<b>For Credit Card Tips from the Consumer Financial Protection Bureau</b>	To learn more about factors to consider when applying for or using a credit card, visit the website of the Consumer Financial Protection Bureau at: <a href="http://www.consumerfinance.gov/learnmore">http://www.consumerfinance.gov/learnmore</a>
Fees	
<b>Annual Fee</b>	\$0
<b>Transaction Fees</b> <ul style="list-style-type: none"> <li>• Cash Advance Fee</li> <li>• Foreign Transaction Fee</li> </ul>	The greater of either <b>\$10</b> or <b>5%</b> of the amount of each transaction. None.
<b>Penalty Fees</b> <ul style="list-style-type: none"> <li>• Late Payment</li> <li>• Return Payment</li> <li>• Over-the-credit-limit</li> </ul>	Up to <b>\$40.</b> Up to <b>\$40.</b> \$0

**Note:** Your credit card is not eligible for balance transfers.

**How We Will Calculate Balances:** We use a method called "average daily balance" (including new transactions). See How Do You Calculate the Interest Charge? below for more details.

**Billing Rights:** Information on your rights to dispute transactions and how to exercise those rights are included in this Agreement. See Your Billing Rights section for full details.

**Can You Change My Account Terms?** We can change the terms of your credit card account as permitted by law. When required by law, we will send you notice before doing so.

**What Are The Daily Periodic Rates Used To Calculate My Interest?** The daily periodic rate for your Purchase APR is 0.0411% - 0.0822% and Cash Advance APR is 0.0685% – 0.0822%.

**How Can I Avoid Paying Interest Charges?** If you pay your statement's "New Balance" in full by the due date, we will not charge interest on any new transactions that post to the purchase balance. If you have been paying your Account in full without interest

charges, but fail to pay your next "New Balance" in full, we will charge interest on the unpaid balance. For cash advances, we will start charging interest on the transaction date.

**How Is The Interest Charge Applied?** Interest charges accrue from the (1) date of the transaction; (2) date the transaction is processed; or (3) first calendar day of the billing cycle. Interest charges accrue on every unpaid amount until it is paid in full. This means you may owe interest charges even if you pay the entire "New Balance" one month but did not do so for the previous month. Unpaid interest charges are added to the applicable transaction type (e.g., purchase or cash advance) of your account. However, we reserve the right to not assess interest charges at any time.

**Minimum Payment:** We will calculate the minimum payment as the larger of: 1) \$35 (or the total amount you owe if less than \$35), or 2) the sum of 1% of the new balance, the periodic interest charges, and late fees we have billed you on the statement for which your minimum payment is calculated.

**How Do You Calculate The Interest Charge?** We use a method called Average Daily Balance (including new transactions). Under this method, we first calculate your daily balance; for each transaction type (e.g., purchases and cash advances), 1) take the beginning balance and add in new transactions and the periodic interest charge on the previous day's balance, then 2) subtract any payments and credits for the specific transaction types as of that day. The result is the daily balance for each transaction type. However, if you paid your previous month's balance in full (or if your balance was zero or a credit amount), new transactions which post to your account are not added to the daily balances. Also, transactions subject to a grace period are not added to the daily balances.

Next, to find your Average Daily Balance: 1) add the daily balances together for each transaction type, and 2) divide the sum by the number of days in the billing cycle.

At the end of each billing cycle, we determine your interest charge as follows: 1) multiply your Average Daily Balance by the daily periodic rate (APR divided by 365) for that transaction type, and 2) multiply the result by the number of days in the billing cycle. NOTE: Due to rounding, this calculation may vary from the interest charge actually assessed.

**Military Lending Act Notice:** Federal law provides important protections to members of the Armed Forces and their dependents relating to extensions of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an annual percentage rate of 36 percent. This rate must include, as applicable to the credit transaction or account: the costs associated with credit insurance premiums; fees for ancillary products sold in connection with the credit transaction; any application fee charged (other than certain application fees for specified credit transactions or accounts); and any participation fee charged (other than certain participation fees for a credit card account). To receive this information and a description of your payment obligation, please call 844-389-5900.

## Consumer Card Agreement

Thank you for opening a credit card account with us. This Agreement, and any future changes to it, is your contract with us and governs your credit card.

We reserve the right to amend this Agreement at any time, by adding, deleting or changing provisions of this Agreement. When required by law, we will send you notice before doing so. If any amendment gives you the opportunity to reject the change, and if you reject the change in the manner provided in such amendment, we may terminate your right to receive credit and may ask you to return all credit access devices as a condition of your rejection. We may replace your Card with another Card at any time.

This Agreement will continue to apply whether or not you use your Card or Account. It will continue to apply even after your Account is closed, as long as you have a balance or owe us.

### **PLEASE READ THIS AGREEMENT CAREFULLY. THIS AGREEMENT IS SUBJECT TO MANDATORY ARBITRATION PURSUANT TO THE FEDERAL ARBITRATION ACT AND A WAIVER OF CLASS ACTION AND JURY PROVISION.**

#### Definitions

All capitalized terms used in this Agreement and not otherwise defined have the meanings set forth below.

- **“Account”** means your account designated and maintained by the Bank in relation to the credit provided under or in connection with this Agreement. Account includes the account to which any credit transaction or charge by you may be posted.
- **“Billing Cycle”** means the time period between billing statements and is used to manage your Account. Each Statement shows the closing data, which is the last day of the Billing Cycle.
- **“Card”** means one or more cards or other access devices, including your account number or virtual card, that we may issue to you to receive credit under this Agreement. This includes all renewals and substitutions.
- **“Cash Advance”** means a loan in cash or cash equivalents, including, but not limited to, wire transfers, travelers’ checks, money orders and foreign currency.
- **“Fees”** means charges imposed on your Account not based on the Annual Percentage Rates.
- **“Interest Charges”** means any charges to your Account based on the application of Annual Percentage Rates.
- **“Item”** means a check, draft, money order or other negotiable instrument you use to pay your Account. This includes any image of these instruments.
- **“Purchase”** means the use of your Account or Card to buy or lease goods or services. Tax payments and any other associated fees are considered Purchases, but Cash Advances are not considered Purchases.
- **“Servicer”** means CardWorks.
- **“Statement”** means the periodic statement we mail to you in connection with your Account. Your Statement will include all transactions billed to your Account during a Billing Cycle and information about payment owed to us.
- **“Truth-in-Lending Disclosures”** means disclosures that the federal Truth in Lending Act and Regulation Z require for any Account. This includes your application and solicitation disclosures, Account opening disclosures, any disclosures provided as part of this Agreement, subsequent disclosures, Statements, and change in terms notices.
- **“We,” “us,” “our,”** and **“Bank”** mean Evolve Bank & Trust, and its agents, authorized representatives, successors, and assignees.
- **“You”** and **“your”** mean each applicant and co-applicant for the Account, any person responsible for paying the Account, and any person responsible for complying with this Agreement.

#### Account Documents

The following Account Documents govern your Account with us:

- (1) this Agreement;
- (2) all Statements;
- (3) any rewards program terms, conditions, and disclosures;

- (4) any privacy notices;
- (5) any Card benefits brochure which describes benefits provided by the credit card network for your Account;
- (6) all disclosures and materials provided to you before or when you opened your Account;
- (7) any other documents and disclosures relating to your Account, including those provided online; and
- (8) any future changes we make to any of the above.

Please read these Account Documents carefully and keep them for future reference.

## **New Offers**

In the future, we may provide you with new offers that we think may interest you. The terms of these offers may differ from the standard terms on your Account. This Agreement will still apply.

## **Account Information**

We need information about you to manage your Account. This includes, but is not limited to:

- (1) your legal name;
- (2) a valid U.S. mailing address and residential address (if different);
- (3) your date of birth;
- (4) your Social Security number or other government identification number;
- (5) your telephone number(s); and
- (6) your employment and income information.

You must tell us when this information changes. We may ask you for additional documents and to verify any changes to information you have provided us.

We may restrict or close your Account if we cannot verify your information, or if you do not provide it as requested.

## **Credit Limits**

We will inform you of your credit limit from time to time. We may give you different credit limits for the different portions of your Account. For example, you may have one credit limit for Purchases and a different one for Cash Advances. You are responsible for keeping track of your balances and your available credit for each transaction type (e.g., Purchases, Cash Advances, etc.). You must keep your Account balance below each applicable credit limit. We may honor transactions above your credit limits, but if we do, these transactions will not increase your credit limit. You are responsible for paying for any transaction you make above your credit limits. We may increase, decrease, restrict, or cancel your credit limit for any and all transaction types at any time, without notice. This will not affect your obligation to pay us. Your available credit may not be restored for up to ten (10) business days after we receive your payment.

## **Using Your Account**

- (1) We may decline to authorize a transaction for any reason. This may occur even if the transaction would not cause you to go over your credit limit or your Account is not in default.
- (2) We will bill each transaction to the applicable transaction type of your Account. We will apply it against your available credit for that transaction type category.
- (3) You must not use, or try to use, the Card for any illegal activity. You are responsible for any charges if you do.
- (4) We are not liable for any losses that may result when our services are unavailable due to reasons beyond our control.
- (5) You may use the Card for Cash Advances and to make Purchases only for personal, family or household purposes from any person or establishment accepting the Card.

## **Rewards**

Your Account may provide you with the opportunity to earn rewards. If it does, we will separately provide you with information and terms about the rewards. For questions regarding rewards, please contact the Bilt Loyalty Program at [rewards@bilt.com](mailto:rewards@bilt.com).

## **Cash Advances**

You may obtain Cash Advances as permitted for your Account. You may not use Cash Advances to pay any amount you owe us or Servicer.

## **Using a PIN**

We may give you a personal identification number (“PIN”). For security reasons, you may have to provide the PIN before you are able to use your Card. Keep your PIN secure. Do not write it down, give it to anyone, or keep it with your Card. If you lose your Card or believe the confidentiality of your PIN has been compromised for any reason, you must contact us immediately at the number provided on the back of your Card.

## **No Authorized Users**

We will not issue an additional Card to allow any other person to access the Account. You understand that only you are permitted to use the Card or Account. If, however, any person you authorize initiates a transaction using the Card or Account or if such person incurs a Fee in connection with the Card or Account, you are responsible and liable for the transaction and any Fees or Interest Charges incurred. If you permit another person to have access to the Card or Account, this will be treated as if you authorized such use and you will be liable for all transactions and Fees incurred by those persons. You are wholly responsible for the use of each Card according to the terms and conditions of this Agreement.

## **Your Promise to Pay**

By using your Card or your Account, you promise to pay us for all transactions made on your Account, as well as any fees, interest charges or other charges or Fees. If this is a joint account, each of you, together and individually, are responsible for all amounts owed, even if only one of you uses the Account.

## **Statements**

You agree to be a paperless Cardholder and accept all statements, including Statements, and communications electronically. We will send you an electronic Statement at the end of each Billing Cycle, unless not required by law or the law prohibits us from doing so. Unless you make other arrangements with us, your Statement will be delivered to you electronically, as further described in the Evolve Bank & Trust Electronic Communication Consent. We will not send you Statement if: (1) we deem your Account uncollectable; (2) delinquency collection proceeds have been instituted; or (3) for any other reason permitted by applicable law. You may request a paper copy of your Statement for a \$10 fee by calling the number on the back of your Card. The fee will be assessed for each requested paper copy of your Statement. Bank will mail any requested paper Statement to you by regular mail to your address as it appears in our records.

## **Disputed Transactions**

You must inspect each Statement you receive and must immediately contact us about any errors or questions you have, as described in the “Billing Rights Summary” on your Statement and in this Agreement. If you do not notify us of an error, we will assume that all information on the Statement is correct. If we credit your Account for all or part of a disputed transaction, you give us all of your rights against others regarding that transaction, and will also: (1) give us any information about the disputed transaction, if we ask; (2) not pursue any claim or reimbursement of the transaction amount from the merchant or any other person; and (3) help us get reimbursement from others.

## **Security and Lost or Stolen Card**

You must take reasonable steps to prevent the unauthorized use of your Card and/or Account. For security reasons, you must, upon receipt of the Card, sign it in ink in the space provided and comply with any card activation procedures as may be prescribed by the Bank. You must notify us immediately and assist us in our investigation if your Card is lost or stolen or you believe someone is using your Account or Card without your permission. You will not be responsible for transactions on your Account that we find are unauthorized. If we reimburse you for unauthorized transactions, you will help us investigate, pursue and get reimbursement from the wrongdoer. Your help includes giving us documents in a form that we request. You should contact us by calling us at 844-389-5900, Monday through Friday 7 AM to 8 PM EST.

## **Interest Charges and Fees**

We impose Interest Charges and Fees on your account. Interest Charges are imposed using the average daily balance method, as disclosed on your Statement and this Agreement. We will not charge you interest on any new transactions posted to a Purchase transaction of your Account if you paid the total balance across your Account in full by the due date on your Statement each month. We will generally treat Fees as Purchase transactions unless otherwise specified below. Fees apply to your Account only if your Truth-in-Lending Disclosures provide for them. We may increase your Interest Charges and Fees as described in the Amendments to Your Agreement section.

## **Annual Fee**

Your Card has no annual Fee.

## **Late Payment Fee**

We may charge you this Fee if we do not receive your payment as instructed on your Statement by the payment due date. This Fee will not exceed the amount permitted by law.

## **Returned Payment Fee**

We may charge you this Fee each time your financial institution for any reason rejects a payment you make to us.

## **Stop Payment Fee**

We may charge you this Fee each time you ask us to stop payment or renew a stop payment order. The fee will be disclosed to you at the time you submit or renew a stop payment order.

## **Cash Advance Fee**

We may charge you this Fee each time you take out a Cash Advance. We will treat this Fee as a Cash Advance Transaction.

## **Transactions Made in Foreign Currencies**

If you make a transaction in a foreign currency, the credit card network provider will convert it into a U.S. dollar amount. The credit card network provider will use its own currency conversion procedures. The conversion rate in effect on the processing date may differ from the rate in effect on the transaction date that appears on your Statement. We do not adjust the currency exchange rate. We charge a currency conversion Fee as set forth in the Rate and Fee Table.

## **Minimum Payment**

You must pay us at least the minimum payment amount by the payment due date shown on your Statement. Your Statement will tell you: (1) the minimum payment due; (2) your new balance; (3) the payment due date; and (4) an explanation of when the payment must reach us for us to consider it received as of that date. Returns and other credits to your Account will reduce your Account balance, but they will not change your minimum payment amount.

In addition to the minimum payment, you may pay all or part of the total balance on your Account. But, you must still pay at least the minimum payment amount each month, even if you paid more than the minimum payment due on the previous Statement. We will continue to charge Interest Charges during Billing Cycles when you carry a balance regardless of whether your Statement includes a minimum payment that is due. If your Account is 90 days past due, is part of a bankruptcy proceeding or is otherwise charged off, the total balance is immediately due and payable.

## **Making Payments**

Your payment must be made in U.S. dollars from a U.S. deposit account in a form acceptable to us. We do not accept cash payments through the mail. You may not make payments with funds from your Account or any other credit account with us or any other company in the Bank organization. You must send mailed payments to us as instructed on your Statement, unless we tell you otherwise. If you mail payment to an address other than the payment address shown on your Statement, there may be a delay in crediting the payment to your Account. We can accept late payments, partial payments or payments marked "payment in full," or any other restrictive endorsement, without losing any of our rights under this Agreement. We may refuse to accept payments made to your Account by someone else on your behalf. If we do accept it, you will be responsible for the payment and any cost if a financial institution rejects it.

Services are available that allow you to make faster or recurring payments, such as ACH, online or by telephone. We will describe the terms for using these services and any applicable Fee before you use them. You do not have to use these other payment services. We are not responsible if your financial institution rejects a payment made using our payment services.

## **Payment Processing**

We may accept and process payments without losing any of our rights. We may delay the availability of credit until we confirm that your payment has cleared. This may happen even if we credit your payment to your Account. We may resubmit and collect returned payments electronically. If necessary, we may adjust your Account to correct errors, process returned and reversed payments, and handle similar issues.

When you send us an Item as payment, you authorize us to make a one-time electronic fund transfer from your deposit account. You also authorize us to process the payment as an Item. We may withdraw the funds from your deposit account as early as the same day we receive your payment. You will not receive your Item back from your bank. We will provide additional information about this process on your Statement.

We may use the information from an item to create an electronic image. We may collect and return the image electronically. This electronic image may also be converted to a substitute check and may be processed in the same way we would process an Item. We will not be responsible if an Item you provide has physical features that when imaged result in it not being processed as you intended.

## **How We Apply Your Payments**

A different APR may apply to your Account depending on the transaction type. For example, Purchases may have a lower APR than Cash Advances. If your Account has balances with different APRs, here is how we apply payments in a Billing Cycle:

- (1) We generally apply credits and payments up to your minimum payment first to the balance with the lowest APR, and then to balances with higher APRs.
- (2) We apply any part of your payment exceeding your minimum payment to the balance with the highest APR, and then to balances with lower APRs.

## **Credit Balances**

We may reject and return any payment that creates or adds to a credit balance on your Account. Any credit balance we allow will not be made available until we confirm that your payment has cleared. We may without notice restrict the availability of any credit balance in our sole and absolute discretion. We may reduce the amount of any credit balance by any new charges. You may write to the address provided on your Statement or call the number on the back of your Card to request a refund of any available credit balance.

## **Account Default**

You will be in default if:

- (1) you do not make any payment when it is due;
- (2) any payment you make is rejected, not paid or cannot be processed;
- (3) you exceed a credit limit;
- (4) you file or become the subject of a bankruptcy or insolvency proceeding;
- (5) you are unable or unwilling to repay your obligations, including upon death or legally declared incapacity;
- (6) we determine that you made a false, incomplete or misleading statement to us, or you otherwise tried to defraud us;
- (7) you do not comply with any term of this Agreement or any other agreement with us; or
- (8) you permanently reside outside the United States.

If you are in default, we may take certain actions with respect to your Account. For example, depending on the default, we may take the following actions, without notifying you, unless the law says that we must give you notice:

- (1) charge you Fees, or change the APRs and Fees on your Account;
- (2) close or suspend your Account;
- (3) lower your credit limit(s);
- (4) demand that you immediately pay the total balance owing on your Account;
- (5) continue to charge you Interest Charges and Fees as long as your balance remains outstanding; and/or
- (6) file a lawsuit against you or pursue another action that is not prohibited by law. If we file a lawsuit, you agree to pay our court costs, expenses and attorney fees, unless the law does not allow us to collect these amounts.

## **Communications**

Unless we tell you otherwise, you can notify us at Evolve Bank & Trust, P.O. Box 1899, Memphis, TN 38101-1899, or call the Servicer at 844-389-5900. When writing, please include your name, address, home telephone number and Account number.

To the extent permitted by applicable law, you authorize us and our affiliates, agents, and contractors, and anyone to whom we may sell your Account, to contact you to service your Account or for collection purposes. You agree that these contacts are not unsolicited

for purposes of state or federal law. You further agree that the Bank, its affiliates, agents, and contractors and anyone to whom it may sell your Account may: (1) contact you in any way, including mail, email, calls, and texts, including a mobile, wireless, or similar device, even if you are charged by your provider, and using automated telephone equipment or prerecorded messages; (2) contact you at any number that you have given us or any number we have for you in our records, including your cellular or other wireless device, even if that number is a wireless, cellular, or mobile number, is converted to a mobile/wireless number, or connects to any type of mobile/wireless device, and even if such telephone number is currently listed on a Do Not Call Registry; and (3) contact you at any email address you provide to us or any other person or company that provides any services in connection with this Agreement. You authorize us to monitor and/or record your calls with us. You agree to notify us within five (5) business days after changing your email address, mailing address, or phone number.

## **Credit Reports**

We or our Servicer may obtain and use credit, income and other information about you from credit bureaus and others as the law allows. We may reevaluate your financial condition and investigate any information you provided on your Account application at any time. In the course of doing so, we may obtain a current credit report and ask you for additional information about your financial condition. You give us permission to obtain any information about you that we believe would be beneficial to facilitate our determination of your eligibility for the Account and the Card, including credit reports from consumer reporting agencies.

We may report information about your Account to credit bureaus and others. Late payments, missed payments, or other defaults on your Account may be reflected in your credit report. Information we provide may appear on your and the Authorized Users' credit reports. If you believe that we have reported inaccurate information about your Account to a credit bureau or other consumer reporting agency, notify us in writing at Evolve Bank & Trust, P.O. Box 1899, Memphis, TN 38101-1899. When you write, tell us the specific information that you believe is incorrect and why you believe it is incorrect.

## **Amendments to Your Agreement**

At any time, we may add, delete or change any term of this Agreement, unless the law prohibits us from doing so. We will give you notice of any changes as required by law. We may notify you of changes on your Statement or in a separate notice. Our notice will tell you when and how the changes will take effect.

Your variable APRs (if applicable) can go up or down as the index for the rate goes up or down. If we increase your APRs for any other reason, or if we change your Fees or other terms of your Account, we will notify you as required by law.

## **The Law That Applies to Your Agreement**

This Agreement is entered into between you and us in the State of Tennessee, and your Account and this Agreement, and any claim, dispute or controversy arising from or relating to your Account or this Agreement, whether based in contract, tort, fraud or otherwise and regardless of the place where you live, is governed by, and construed in accordance with, the laws of the State of Tennessee, without regard to Tennessee's conflict of laws principles, and applicable federal laws and regulations. The legality, enforceability and interpretation of this Agreement and the amounts contracted for under this Agreement also are governed by Tennessee law and applicable provisions of federal law, and all amounts granted under this Agreement are extended from the State of Tennessee.

## **Servicer**

The Servicer services parts of your Card and Account, including, but not limited to, Account and/or Card management through Servicer's website or mobile application and customer service relating to any rewards offered in connection with your Card or Account. In this capacity, Servicer may act on our behalf, perform our obligations or enforce our rights under this Agreement. You understand and acknowledge that we may share with Servicer any information you provide to us in connection with your Account or Card or any information we collect in connection with your Account or Card in order for Servicer to provide you with products and/or services in connection with your Account and/or Card.

## **Waiver**

We can delay enforcing or not enforce any of our rights under this Agreement without losing our right to enforce them in the future. For example, we may accept late payments or payments that are marked "payment in full" or with other restrictive endorsements without losing any of our rights under this Agreement. We may waive our right without notifying you. For example, we may waive your Interest Charges or Fees without notifying you and without losing our right to charge them in the future.

## **Assignment**

This Agreement will be binding on, and benefit, any of your and our successors and assigns. You may not sell, assign or transfer your Account or this Agreement to someone else without our written permission. We may sell, assign or transfer your Account and this Agreement without your permission and without prior notice to you. Any assignee or assignees will take our place under this

Agreement. You must pay them and perform all of your obligations to them and not us. If you pay us after we notify you that we have transferred your Account or this Agreement, we can return the payment to you, forward the payment to the assignee, or handle it in another way that is reasonable.

## **Disclaimer of Liability**

We are not responsible if anyone refuses to accept or honor your Card or Account, even if you have sufficient available credit. Except as required by applicable law, we will not be responsible for any claim or defense you may have against any third-party that arises out of or in connection with any transaction with your Card or Account or any services or goods or other property purchased or leased using your Card or Account. We are not responsible for any losses you incur if we do not authorize a transaction.

## **Termination**

Subject to applicable law, we may terminate this Agreement or revoke your right to use your Account or Card, along with your right to make future transactions, at any time and for any reason without notice to you. You may contact us using the number on the back of your Card to close your Account. If we close or suspend your Account for any reason, you must stop using your Card. You must also cancel all billing arrangements set up on the Account. If we close or permanently suspend your Account, you must return or destroy all Cards. You must still pay us all amounts you owe on the Account. You must also return the Card to us or destroy it if we ask you to.

## **Arbitration**

This Section sets forth the circumstances and procedures under which Claims (as defined below) shall be arbitrated instead of litigated in court upon the election of either party.

(1) **Definitions:** As used in this Arbitration Section, the term “Claim” means any claim, dispute or controversy between you and Bank, Servicer or any of their agents or retailers, arising from or relating to the Card or this Agreement as well as any related or prior agreement that you may have had with us or the relationships resulting from this Agreement, including the validity, enforceability or scope of this Arbitration Section or the Agreement. “Claim” includes claims of every kind and nature, including but not limited to initial claims, counterclaims, cross-claims and third-party claims and claims based upon contract, tort, fraud and other intentional torts, statutes, regulations, common law and equity. The term “Claim” is to be given the broadest possible meaning that will be enforced and includes, by way of example and without limitation, any claim, dispute or controversy that arises from or relates to (i) your Card or Account; (ii) advertisements, promotions or oral or written statements related to the Card or Account or goods or services purchased with the Cards; (iii) the benefits and services related to the Card or Account; and (iv) your enrollment for any Card or Account. We shall not elect to use arbitration under the Arbitration Provision for any Claim that you properly file and pursue in a small claims court of your state or municipality so long as the Claim is individual and pending only in that court; any appeals from that court shall be pursued only in arbitration. As used in this Arbitration Section, the terms “we” and “us” shall for all purposes mean the Bank and Servicer, and their respective affiliates, licensees, predecessors, successors, and assigns, and all of their respective agents, employees, directors and representatives. In addition, “we” or “us” shall include any third party using or providing any product, service or benefit in connection with any Cards (including, but not limited to merchants who accept the Card, third parties who use or provide services, debt collectors and all of their agents, employees, directors and representatives) if, and only if, such third party is named as a co-party with us (or files a Claim with or against us) in connection with a Claim asserted by you. As solely used in this Arbitration Section, the terms “you” or “your” shall mean all persons or entities that have access to or use a Card or Account, including but not limited to all persons or entities contractually obligated under any of the Agreements.

(2) **Initiation of Arbitration Proceeding/Selection of Administrator:** Any Claim shall be resolved, upon the election by you or us, by arbitration pursuant to this Arbitration Section and the code of procedures of the national arbitration organization to which the Claim is referred in effect at the time the Claim is filed. Claims shall be referred to either Judicial Arbitration and Mediation Services (“JAMS”) or the American Arbitration Association (“AAA”), as selected by the party electing to use arbitration. For a copy of the procedures, to file a Claim or for other information about these organizations, contact them as follows: (i) JAMS at 1920 Main Street, Suite 300, Los Angeles, CA 92614; website at [www.jamsadr.com](http://www.jamsadr.com); and (ii) AAA at 335 Madison Avenue, New York, NY 10017; website at [www.adr.org](http://www.adr.org).

(3) **Significance of Arbitration:** IF ARBITRATION IS CHOSEN BY ANY PARTY WITH RESPECT TO A CLAIM, NEITHER YOU NOR WE WILL HAVE THE RIGHT TO LITIGATE THAT CLAIM IN COURT OR HAVE A JURY TRIAL ON THAT CLAIM, OR TO ENGAGE IN DISCOVERY EXCEPT AS PROVIDED FOR IN THE CODE OF PROCEDURES OF JAMS OR AAA, AS APPLICABLE (THE “CODE”). FURTHER, YOU WILL NOT HAVE THE RIGHT TO PARTICIPATE IN A REPRESENTATIVE CAPACITY OR AS A MEMBER OF ANY CLASS OF CLAIMANTS PERTAINING TO ANY CLAIM SUBJECT TO ARBITRATION. THE ARBITRATOR SHALL NOT CONDUCT A CLASS ARBITRATION OR A JOINT ARBITRATION, EXCEPT AS SET FORTH BELOW. THE ARBITRATOR’S DECISION WILL BE FINAL AND BINDING. NOTE THAT OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT ALSO MAY NOT BE AVAILABLE IN ARBITRATION.

(4) **Restrictions on Arbitration:** If either party elects to resolve a Claim by arbitration, that Claim shall be arbitrated on an individual basis. There shall be no right or authority for any Claims to be arbitrated on a class action basis or on bases involving Claims brought

in a purported representative capacity on behalf of the general public, other cardholders or other persons similarly situated. The arbitrator's authority to resolve Claims is limited to Claims between you and us alone, and the arbitrator's authority to make awards is limited to you and us alone. Furthermore, Claims brought by you against us or by us against you may not be joined or consolidated in arbitration with Claims brought by or against someone other than you, unless otherwise agreed to in writing by all parties.

(5) Location of Arbitration/Payment of Fees: Any arbitration hearing that you attend shall take place in the federal judicial district of your residence. At your written request, we will consider in good faith making a temporary advance of all or part of the filing administrative and/or hearing fees for any Claim you initiate as to which you or we seek arbitration. At the conclusion of the arbitration (or any appeal thereof), the arbitrator (or panel) will decide who will ultimately be responsible for paying the filing, administrative and/or hearing fees in connection with the arbitration (or appeal). If and to the extent you incur filing, administrative and/or hearing fees in arbitration, including for any appeal, exceeding the amount they would have been if the Claim had been brought in the state or federal court which is closest to your billing address and would have had jurisdiction over the Claim, we will reimburse you to that extent unless the arbitrator (or panel) determines that the fees were incurred without any substantial justification.

(6) Arbitration Procedures: This Arbitration Section is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, as it may be amended (the "FAA"). The arbitration shall be governed by the applicable Code, except that (to the extent enforceable under the FAA) this Arbitration Section shall control if it is inconsistent with the applicable Code. The arbitrator shall apply applicable substantive law consistent with the FAA and applicable statutes of limitations and shall honor claims of privilege recognized at law and, at the timely request of either party, shall provide a brief written explanation of the basis for the decision. In conducting the arbitration proceeding, the arbitrator shall not apply the Federal or any state rules of civil procedure or rules of evidence. The arbitrator shall take reasonable steps to preserve the privacy of individuals, and of business matters. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator's decision will be final and binding, except for any right of appeal provided by the FAA. However, any party can appeal that award to a three-arbitrator panel administered by the same arbitration organization, which shall consider anew any aspect of the initial award objected to by the appealing party. The appealing party shall have thirty (30) days from the date of entry of the written arbitration award to notify the arbitration organization that it is exercising the right of appeal. The appeal shall be filed with the arbitration organization in the form of a dated writing. The arbitration organization will then notify the other party that the award has been appealed. The arbitration organization will appoint a three-arbitrator panel which will conduct arbitration pursuant to its Code and issue its decision within one hundred twenty (120) days of the date of the appellant's written notice. The decision of the panel shall be by majority vote and shall be final and binding.

(7) Survival: This Arbitration Section shall survive termination of your Card or Account as well as voluntary payment of the debt in full by you, any legal proceeding by us to collect a debt owed by you, and any bankruptcy by you or us. If any portion of this Arbitration Section is deemed invalid or unenforceable under any principle or provision of law or equity, consistent with the FAA, it shall not invalidate the remaining portions of this Arbitration Section, the Agreement or any prior agreement you may have had with us, each of which shall be enforceable regardless of such invalidity.

## **Your Billing Rights – Keep For Future Use**

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

**What To Do If You Find a Mistake on Your Statement:** If you think there is an error on your statement, write to us at:

Evolve Bank & Trust  
P.O. Box 1899  
Memphis, TN 38101-1899

You may also contact us at 844-389-5900, Monday through Friday 9 AM to 5 PM (EST). In your letter, give us the following information: (1) account information: your name and Account number; (2) dollar amount: the dollar amount of the suspected error; and (3) description of the problem: if you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake. You must contact us within 60 days after the error appeared on your statement, and at least three (3) business days before an automated payment is scheduled, if you want to stop payment on the amount you think is wrong.

You may notify us of any potential errors in writing or by calling us. You may still be required to pay the amount(s) in question if the Bank determines the transaction is not an error. If you believe fraud has occurred on your account, please call us as soon as possible at 844-389-5900.

**What Will Happen After We Receive Your Letter:** When we receive your letter, within 30 days of receiving your letter, we will tell you that we received your letter. We will also tell you if we have already corrected the error. While we investigate whether or not there has been an error, the following are true: (1) we cannot try to collect the amount in question or report you as delinquent on that amount. The charge in question may remain on your statement, and we may continue to charge you interest on that amount. But, if we determine that we made a mistake, you will not have to pay the amount in question or any interest or other fees related to that

amount; (2) while you do not have to pay the amount in question until we send you a notice about the outcome of our investigation, you are responsible for the remainder of your balance; and (3) we can apply any unpaid amount against your credit limit. Within 90 days of receipt of your letter, we will send you a written notice explaining either that we corrected the error (to appear on your next Statement) or the reasons we believe the bill is correct. If we do not believe there was a mistake, you will have to pay the amount in question, along with applicable interest and fees. We will send you a Statement of the amount you owe and the date payment is due. We may then report you as delinquent if you do not pay the amount we think you owe.

If you receive our explanation but still believe your bill is wrong, you must write to us within 10 days telling us that you still refuse to pay. If you do so, we cannot report you as delinquent without also reporting that you are questioning your bill. We must tell you the name of anyone to whom we reported you as delinquent, and we must let those organizations know when the matter has been settled between us.

If we do not follow all of the rules above, you do not have to pay the first \$50 of the amount you question, even if your bill is correct.

**Your Rights If You Are Dissatisfied With Your Card Purchase:** If you are dissatisfied with the goods or services that you have purchased with your Card and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the purchase. To use this right, all of the following must be true: (1) you must have used your Card for the purchase. Purchases made with Cash Advances from an ATM do not qualify or with a check that accesses your credit card account do not qualify; and (2) you must not yet have fully paid for the purchase.

If all of the criteria above are met and you are still dissatisfied with the purchase, contact us in writing at:

Evolve Bank & Trust  
P.O. Box 1899  
Memphis, TN 38101-1899

While we investigate, the same rules apply to the disputed amount as discussed above. After we finish our investigation, we will tell you our decision. At that point, if we think you owe us an amount and you do not pay, we may report you as delinquent.

## State Notices

All Accounts, including California and Utah Residents: As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

Wisconsin Residents: Your signature confirms that this loan obligation is being incurred in the interest of your marriage or family. No provision of any marital property agreement, unilateral statement or court decree adversely affects a creditor's interest unless, prior to the time the credit is granted, the creditor is furnished a copy of the agreement, statement or decree or has actual knowledge of the adverse provision.

New York and Vermont Residents: We may obtain at any time your credit reports, for any legitimate purpose associated with the Account or the application or request for an Account, including but not limited to reviewing, modifying, renewing and collecting on your Account. On your request, you will be informed if such a report was ordered. If so, you will be given the name and address of the consumer reporting agency furnishing the report. New York residents may contact the New York State Department of Financial Services to obtain a comparative listing of credit card rates, fees and grace periods. New York State Department of Financial Services - (800) 342-3736 or <https://www.dfs.ny.gov/>.

New Jersey Residents: Because certain provisions of this Agreement are subject to applicable laws, they may be void, unenforceable or inapplicable in some jurisdictions. None of these provisions, however, is void, unenforceable or inapplicable in New Jersey.

Missouri, Nebraska and Washington Residents: Oral agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt, including promises to extend or renew such debt, are not enforceable. To protect you (borrower) and us (creditor) from misunderstanding or disappointment, any agreements we reach covering such matters are contained in this writing, which is the complete and exclusive statement of the agreement between us, except as we may later agree in writing to modify it.

Massachusetts Residents: Massachusetts law prohibits discrimination based upon marital status or sexual orientation.

Ohio Residents: The Ohio laws against discrimination require that all creditors make credit equally available to all credit-worthy customers and that credit reporting agencies maintain separate credit histories on each individual upon request. The Ohio Civil Rights Commission administers compliance with the law.