

# The Wells Fargo Rewards<sup>®</sup> Program Terms and Conditions

Effective: September 2013

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### Section 1: Your Contract With Us

1. “You”, “Your”, or “Customer” means, as applicable, each person who is the owner of an Earning Mechanism and a participant in the Wells Fargo Rewards Program (“Program”) through that Earning Mechanism as indicated in our records. “Wells Fargo”, “We”, “Us”, or “Our” shall mean Wells Fargo Bank, N.A. This Program is not available for product(s), promotion(s) or offer(s) unless specifically allowed.
2. The Program may encompass multiple product(s), or promotion(s), or offer(s) (collectively and each an “Earning Mechanism(s)”). Each Earning Mechanism will also have terms and conditions which may address Program fees, Rewards Currency (defined in Section 2 below) expiration, annual earnings maximums and Program cancellation (“Addendum(s)”) that will supplement these Program Terms and Conditions. These Program Terms and Conditions and Addendum(s), as well as any additional terms and conditions that are referenced in these Program Terms and Conditions, represent the complete terms of the Program (collectively “Terms”). You also acknowledge that You will be required to consent to certain agreements for online functionality. You agree to these Terms by using the Program.
3. **Changes to the Terms or Program: Wells Fargo reserves the right to amend, cancel, or temporarily suspend the Program or Your participation in the Program, in whole or in part, or change any of the Terms, at any time for any reason, including without limitation, suspected fraud, abuse of Program privileges or violation of the Terms, as determined in Our sole discretion, which may result in the decrease of redemption value, the cancellation of the ability to earn and/or redeem Rewards Currency, and/or forfeiture of Rewards Currency. We will give You advance written notice of material changes.** You can find the most current Program Terms and Conditions at [MyWellsFargoRewards.com](http://MyWellsFargoRewards.com) or by calling the *Wells Fargo Rewards* Service Center at 1-877-517-1358.
4. We have the right to monitor all activity with Your use of the Program. From time to time, We may monitor and record telephone calls regarding Your Program to assure the quality of Our service. You agree and consent, in order for Us to service Your Program that We may from time to time make calls and send text messages to You, using prerecorded/artificial voice messages and/or through the use of an automatic dialing device, at any telephone number associated with Your account, including mobile phone numbers that could result in charges to You. You also expressly consent to Wells Fargo sending email messages about Your Program to any email address You provide to Us. Your consent overrides any “do-not-call or do-not-email” restrictions You may have registered under federal or state law or any internal Wells Fargo privacy or solicitation preference You have previously expressed. You agree to promptly notify Us if You change any contact information You provide to Us, including Your name, mailing address, e-mail addresses, or phone numbers.
5. This Program is offered by Wells Fargo and is supported by several service providers, including Epsilon (program and online auction administrator); Montrose Travel (travel rewards); LoyaltyEdge from American Express<sup>®</sup> (gift card and merchandise rewards); and Affinity Solutions (*Earn More Mall*<sup>®</sup>) (collectively “Service Providers”). You can find terms and conditions for the *Earn More Mall* at [MyWellsFargoRewards.com](http://MyWellsFargoRewards.com).
6. Neither Wells Fargo, Service Providers, nor either parties’ respective parents, subsidiaries and affiliated companies (collectively “Affiliates”) maintain control over independent suppliers. Independent suppliers may include airline, hotel, cruise line, rental car, merchandise, activity, and gift card suppliers (collectively and each a “Supplier(s)”) that will provide accommodations, products, services or benefits (individually and collectively “Services”) related to this Program. Wells Fargo and Service Providers are not co-vendors with any Supplier. Neither Wells Fargo nor Service Providers nor their respective Affiliates will be responsible for any loss or injury to property or persons which may be caused or contributed to by Suppliers or by any other cause, condition or event beyond the direct control of Wells Fargo or Service Providers or their respective Affiliates. You agree to release Wells Fargo, Service Providers and their respective Affiliates, as well as their respective officers, shareholders, assigns, directors, employees and agents from any and all liability for claims resulting from any acts or omissions of the Suppliers providing or failing to provide Services in connection with the Program, or from any other cause, condition or event beyond the direct control of Service Providers, Wells Fargo or each of their respective Affiliates.
7. TO THE FULLEST EXTENT ALLOWABLE BY LAW, WELLS FARGO AND ITS SERVICE PROVIDERS SPECIFICALLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, ABOUT THE

SERVICES OFFERED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.

8. These Terms are void where prohibited by law. All registered marks, trademarks and service marks belong to their respective owners.
9. These Terms and Your participation in the Program are governed by federal law and, to the extent applicable, the laws of the State of South Dakota, no matter where You live or use the Program.
10. If any provision of the Terms are determined to be unlawful, the rest of the Terms will stand and the unlawful provision will be deemed amended to conform to law.
11. We may waive or delay enforcing any of our rights without losing them. If there is more than one owner of a particular Earning Mechanism, a default by one of You will be a default by all of You, and we may waive or delay in enforcing a right against one of You without waiving it as to all of You. Neither We nor our Service Providers are responsible for any disputes between owners of Earning Mechanisms or any authorized users relating to Rewards Currency, redemption of rewards, or use of rewards.
12. We reserve the right to assign any rights we have in the Program to another creditor or party. The other creditor or party is then entitled to any rights We assign to them. You do not have the right to assign, transfer or sell Your Rewards Account.

## **Section 2: Your Rewards Program Account, Rewards Currency And Earning Mechanisms**

13. An Earning Mechanism will earn “Points”, “Cash Rewards” or “Rebates” (collectively and each a “Rewards Currency”). A *Wells Fargo Rewards* Program account (“Rewards Account”) will be automatically opened for You. A Rewards Account holds, calculates and accumulates Rewards Currency, and will have at least one Earning Mechanism assigned to it. A Rebate Earning Mechanism will display as “Cash Rewards” in Your Rewards Account. You can earn Rewards Currency in a variety of ways, including purchases made with an Earning Mechanism at qualifying merchants or in connection with other promotions or offers.
14. Rewards Accounts involving automatic redemptions will be combined if requested by You. Any other Rewards Accounts with the same Rewards Currency and the same owner will be combined into one Rewards Account. You can also combine any of Your other individually owned Rewards Accounts into any Rewards Account that is jointly owned by You and another person as long as all of the Rewards Accounts have the same Rewards Currency.
15. If You have questions or disputes about any Rewards Account balance, please call the *Wells Fargo Rewards* Service Center at 1-877-517-1358 upon receiving the Earning Mechanism’s billing statement or Program update notice on which the balance amount in question first appears.
16. If any Earning Mechanism is cancelled or closed for any reason, the related Rewards Currency will be forfeited on the date of cancellation or closure. You have no property or other legal right in any Rewards Currency including, but not limited to, the Rewards Currency forfeited as a result of Earning Mechanism cancellation or closure, Program closure, any applicable Rewards Currency expiration, or for violation of these Terms. Additionally, You cannot pledge, sell, assign or transfer Rewards Currency to any third party except as provided in these Terms nor can Rewards Currency be transferred by operation of law, such as by inheritance, in bankruptcy or in connection with a division of property by spouses or domestic partners.
17. If You have a Rewards Account with multiple Earning Mechanisms that can be cancelled or closed, only Rewards Currency associated with the Earning Mechanism that is cancelled or closed will be forfeited. No other Rewards Currency will be impacted.
18. Any pending Rewards Currency related to the closed or cancelled Earning Mechanism will also be forfeited. “Pending” Rewards Currency is currency that has not yet posted to the Rewards Account and is not yet available for redemption, transferring or gifting.

## **Section 3: Options For Redeeming Rewards**

19. You can redeem Rewards Currency either manually or automatically depending on the reward. You can complete either redemption by signing on to [MyWellsFargoRewards.com](http://MyWellsFargoRewards.com) or calling the *Wells Fargo Rewards* Service Center at 1-877-517-1358. You can also redeem through the online auction. Access to the online auction and auction terms and conditions can be found at [MyWellsFargoRewards.com](http://MyWellsFargoRewards.com).
20. Manual cash redemption options include a deposit to Your qualifying Wells Fargo Checking or Savings account, or a credit to Your qualifying Wells Fargo credit product (each a "Redemption Account"), or a paper check.
21. You can automatically redeem a cash redemption option into a Redemption Account, or receive a paper check. You can only choose one automatic Redemption Account option at a time. If You select a paper check, You will not be able to select a

Redemption Account. To set up Your Redemption Account, visit [MyWellsFargoRewards.com](http://MyWellsFargoRewards.com) or call the *Wells Fargo Rewards Service Center* at 1-877-517-1358.

22. Certain products or accounts may not be eligible for the cash redemption options. Please call the *Wells Fargo Rewards Service Center* at 1-877-517-1358 or visit [MyWellsFargoRewards.com](http://MyWellsFargoRewards.com) for more information.
23. For automatic cash redemption options, Wells Fargo will review Your Rewards Account to determine Rewards Currency earned. When You have earned Your designated amount, We will redeem the Rewards Currency into either a designated Redemption Account or send You a paper check.
24. If You elect to receive a paper check, a check will be issued using the name and address We have on record for You and delivered via first-class U.S. mail. Alternate addresses will not be accepted.
25. If the Rewards Currency cannot be applied to the Redemption Account, We will notify You, and Your Rewards Currency will remain in Your Rewards Account. Your automatic cash redemption option will also default to a manual cash redemption option until You direct Us otherwise.
26. At any time, You can change Your designated Redemption Account to another Redemption Account (e.g. from checking to savings). Any cash redemption option currently in process will be applied to the Redemption Account selected before You initiated the change.
27. If You choose to redeem in the form of a credit to a Redemption Account, it will be applied as a credit to the principal balance. You still need to make any payments due on the Redemption Account.
28. Automatic cash redemption options will be processed and posted to the Redemption Account's statement within four to six weeks.
29. For both manual and automatic cash redemption options, the Redemption Account must be open, not delinquent or in default.

#### **Section 4: Transfer And Gifting Of Rewards Currency**

30. You may transfer any or all of Your Rewards Currency to another Rewards Account owned by You or as a gift to another Program Customer. Simply use the transfer feature on [MyWellsFargoRewards.com](http://MyWellsFargoRewards.com) or call the *Wells Fargo Rewards Service Center* at 1-877-517-1358.
31. Rewards Currency can only be transferred or gifted if it is associated with an Earning Mechanism which is open, not delinquent or in default. To receive Rewards Currency, the Rewards Account must also be associated with one Earning Mechanism that is open, not delinquent or in default. You cannot transfer or gift Rewards Currency until it has posted to Your Rewards Account.
32. A completed gift of Rewards Currency between You and another Program Customer cannot be reversed and is considered final.
33. Rewards Currency is subject to the terms and conditions (including expiration) of the Rewards Account to which Rewards Currency was gifted or transferred.

#### **Section 5: About Rewards Redemption**

34. **All rewards are subject to availability. Wells Fargo and Service Providers may withdraw, change, or replace specific rewards items, Services or Suppliers, change the amount of Rewards Currency or the cash payment amount required for rewards at any time, for any reason, without notice to You. We do not guarantee that any specific reward will be available for any particular length of time.**
35. All rewards redemptions are final and non-refundable, unless specifically stated otherwise in these Terms.
36. Terms and conditions for specific rewards are available on [MyWellsFargoRewards.com](http://MyWellsFargoRewards.com) or by calling the *Wells Fargo Rewards Service Center* at 1-877-517-1358.
37. Rewards may be redeemed by using Rewards Currency, a combination of Rewards Currency and a payment card, or a payment card, depending on the reward selected.
38. If You choose to redeem eligible non-travel items using a combination of Rewards Currency and a payment card, You will need to use a minimum of 100 Points or \$1.00 in Cash Rewards (depending on Your Rewards Currency) to complete the transaction. If You have multiple items in the same redemption transaction, You can only use a combination of Rewards

Currency and a payment card for the item requiring the highest Rewards Currency amount. All other items in the transaction must be redeemed with Rewards Currency.

39. Rewards may not be valid where prohibited by law, if sold for cash or other consideration, or if altered, photocopied, or reproduced.
40. Except as otherwise provided in these Terms, Rewards Currency and rewards have no cash value.

### **Delivery And Returns**

41. Restrictions on delivery of rewards items outside the contiguous 48 United States, and the District of Columbia, or to APO, FPO or PO Boxes vary by reward, Service Provider, and Supplier, and will be disclosed at the time of reward redemption. You can also learn about delivery restrictions by calling the Wells Fargo Rewards Service Center at 1-877-517-1358. All merchandise items will normally be drop-shipped and will be delivered within eight weeks. All other rewards (excluding Redemption Account options) will be delivered within two to four weeks via first-class U.S. mail or private delivery service as determined by Us, at Our sole discretion. Items ordered at the same time may arrive separately. If You request expedited or rush shipment of any reward(s) order, including applicable travel rewards, You will be charged the additional shipping fee. If You select an alternate shipping address for delivery of non-travel reward(s), where allowed, an alternate shipping address notification will be mailed to the address we have on record for You. Addresses cannot be changed after You place Your order.
42. If You return an eligible item for an allowable reason, You will be credited in the same method of redemption/payment used in the original transaction. If You are permitted to return an item that was part of a multiple item redemption transaction and chose to use a combination of Rewards Currency and a payment card for any part of the transaction, the payment card used will be credited first, and You will receive any remaining credit in Rewards Currency.
43. If You receive damaged or defective merchandise, You must call the Wells Fargo Rewards Service Center at 1-877-517-1358 within 30 days of delivery to receive directions on how to return the items. Merchandise must be returned in the original packaging. All parts must be included in the package before credit will be issued. A replacement order on the damaged or defective merchandise will be reshipped to fulfill Your original redemption.
44. Wells Fargo and Service Providers, and their respective Affiliates, are not responsible for replacement of lost, stolen, or damaged items, such as airline tickets, gift cards, theme park tickets or passes.

### **Taxability Of Rewards**

45. We will report Rewards Currency as income to the Internal Revenue Service, state, and local tax authorities if required by applicable law. It is Your responsibility to pay any federal, state or local tax liability, or other fees or gratuities, connected with use of this Program. If You have any questions about Your tax liability, please consult Your tax advisor.
46. Sales tax will be collected where required by applicable law, based on the laws of the location where the reward will be shipped. Where permitted or required by applicable law, any charges for shipping and handling will be treated as an additional purchase and subject to sales tax.

### **Travel Rewards**

47. Travel rewards may include airline tickets, cruise hotels, car rentals, custom getaways, vacation packages and experiences.
48. Geographic restrictions may apply. The information and descriptions given about the travel rewards are based on the inquiries made and are believed to be accurate, but We offer no warranty or representation on the information provided.
49. To cancel or change travel requests, please call the *Wells Fargo Rewards* Service Center at 1-877-517-1358. Cancellations or changes may result in additional fees which will be disclosed to You at that time.
50. To redeem for vacations, custom getaways, sporting and special events, and goodwill travel please call the *Wells Fargo Rewards* Service Center at 1-877-517-1358. These travel rewards cannot be redeemed online.
51. Government issued photo identification is required for all domestic travel. Additional identification such as a Passport, Visa and certain health requirements may be required for travel outside the United States. It is Your or the reward recipient's responsibility to obtain proper travel identification for the destination. You or the reward recipient is responsible for paying the cost of any items required for travel.
52. You are responsible for ensuring that the name(s) on the reservation exactly match the identification required.
53. If Your travel reward is affected by involuntary cancellation due to weather, war, terrorism, epidemic outbreak, acts of civil unrest, natural disasters, or other force majeure events, cancellation fees may be waived at the discretion of the Supplier.

54. Special requests can be made but are not guaranteed. Fees, taxes and charges may apply, depending on the request.
55. Certain restrictions may apply to travel certificates, tickets and documents. Travel certificates, tickets, and documents are not exchangeable, refundable, transferable, nor redeemable for cash and cannot be combined with any other discounts, coupons or rewards. If an electronic method of distribution is not applicable, all travel certificates, tickets and documents will be delivered via a traceable method and will not be replaceable in the event of loss, destruction or theft. You may request travel certificates, tickets and documents to be delivered by overnight carrier and You agree to pay any related delivery fees.
56. If You use a payment card for a travel reward, Your card account will include a charge for taxes and fees. This charge will include amounts paid to the Supplier for Your reservation for taxes owed by the Supplier including but not limited to, sales and use tax, occupancy tax, room tax, excise tax, value-added tax and/or other similar taxes. In certain locations, the tax amount may also include government imposed service fees or other fees not paid directly to the taxing authorities but required by law to be collected by the Supplier. The amount paid to the Supplier for taxes in connection with Your travel reward may vary from the amount estimated and included in the charge to You. The balance of the charge for taxes and fees is a fee retained as part of the compensation for services and to cover the costs of Your reservation, including, for example, customer service costs. The charge for taxes and fees varies based on a number of factors including but not limited to, the amount paid to the Supplier and the location of the Supplier where You will be staying, and may include profit.
57. The Supplier will collect and remit taxes to the applicable taxing authorities. Taxability, the appropriate tax rate and the type of applicable taxes vary greatly by Supplier.
58. If a Supplier is located within a certain jurisdiction, the charge to Your payment card for taxes and fees includes a tax that Montrose Travel is required to collect and send to the jurisdiction owed on amounts retained as compensation for services.
59. Montrose Travel is not able to facilitate a rebate for applicable Goods and Services Tax ("GST") or Value Added Tax ("VAT") if You are using Services to book international accommodations.
60. Government imposed departure or entry taxes may not be included in ticket taxes. You or the reward recipient should be prepared to pay these taxes in cash at the travel location.

### **Seller Of Travel Information**

61. Travel services are provided by SARA Enterprises, Inc., dba Montrose Travel. States sellers of travel registration numbers for Montrose Travel are: California 1018299-10; Iowa 763; State of Washington 602 341 432.

### **Airline**

62. Airline tickets may incur a \$24.00 non-refundable processing fee, as applicable. The \$24.00 processing fee can be paid with Rewards Currency or a payment card.
63. Changes to the travel itinerary, lost tickets, or cancellation of flights made through the *Wells Fargo Rewards* Service Center will be subject to a change fee and will be disclosed at the time of change. This fee may be in addition to any fees the airline may charge You directly, based on their procedures, policies, penalties and additional charges.
64. Some air travel may be limited to class of service and availability. There are no travel blackout dates.
65. All tickets will be issued at time of booking as e-tickets, unless e-tickets are unavailable due to airline restrictions. When paper tickets are required by the airline, Your ticket(s) will be shipped via USPS Priority Mail (two to three business days) at no additional charge to You. For airlines that issue tickets electronically, if You request paper tickets, delivery is subject to the airline's rules and processing fees.
66. When a schedule change occurs, an updated itinerary will be emailed to You. We recommend that travelers reconfirm flight reservations with the airline at least 24 hours before departure for domestic flights and 72 hours before departure for international flights, or as recommended by the airline.
67. Additional costs, fees and taxes are Your or the reward recipient's responsibility. These costs, fees and taxes may include any cost above the ticket value, shipping and handling, requesting a paper ticket when an e-ticket is available, any change or cancellation to the itinerary, any fare increase resulting from a change, tax liability, baggage charges, departure taxes, fuel surcharges, other charges that may have been assessed by government entities, and for tickets purchased not using Rewards Currency.
68. Advance seat assignments, if available and allowed by the airline, are not guaranteed. If You have a specific request, please work directly with the airline.
69. A maximum of eight airline tickets may be booked per online reservation. Some carriers may allow up to nine airline tickets to be booked per reservation. To request reservations for nine tickets, please call the *Wells Fargo Rewards* Customer Service Care Center at 1-877-517-1358.

## **Cruises**

70. Cruises do not include ground transfers. Not all air/sea combinations include ground transfers.
71. You may purchase and arrange Your own transportation in connection with cruise travel or arrange Your transportation through the cruise Supplier. Neither Wells Fargo nor Montrose Travel and their respective Affiliates, nor Suppliers will be liable for any cancellation, trip interruption, difficulties with connecting flights, delay or costs caused by transportation not arranged or purchased through the Supplier. The Supplier may be responsible for cancellation, trip interruption, difficulties with connecting flights, delay or costs caused by transportation arranged or purchased through the Supplier. Neither Wells Fargo nor Montrose Travel and their respective Affiliates have control over the air flight schedules, carriers selected, or whether Your flight will be non-stop. The *Wells Fargo Rewards* Service Center can help You arrange alternatives for the Supplier air/sea package, but cannot guarantee the Supplier will honor Your request. Some Suppliers will not allow You to choose other flight arrangements under any circumstances.
72. It is Your responsibility to make deposits and final payments by the due dates. Until payments are confirmed by the Supplier, price, cabin, and availability are subject to change and cancellation.
73. You have the option to purchase vacation protection insurance. If You decline vacation protection insurance, You will assume all risk of recovery of Your costs. If You purchase vacation protection insurance, any refunds will be subject to the policies of the individual travel insurance provider.

## **Hotel**

74. Hotel reservations include room and applicable taxes only, unless otherwise noted. Any additional hotel charges, such as resort fees and hotel energy surcharges and incidentals that You incur while traveling, are not included in Your reservation and must be paid directly to the hotel. Incidental charges may include but not be limited to, parking fees, baby-sitting, room service, phone and internet usage fees, in-room movies, mini-bar charges and gratuities.
75. Reasonable attempts will be made to notify You of hotel renovation or refurbishment. Neither Wells Fargo nor Montrose Travel nor their respective Affiliates shall be liable for not providing this notice or for damages that may result from such renovation or refurbishment.

## **Car Rental**

76. Car rental rewards are based on 24 hour periods and may be subject to additional fees depending on time of return, including but not limited to hourly rental charges which are the responsibility of You or the reward recipient.
77. Redemption and advance purchase rental rates may include unlimited mileage, taxes and fees.
78. Local taxes, charges, and fees not included will be assessed by the car rental Supplier directly, and are subject to change. Rental terms, cancellation fees and any additional fees are subject to change without notice and may vary by Supplier.
79. Charges for optional services such as insurance coverage, fuel, additional or underage drivers, and special equipment charges vary by Supplier and are not included. Charges are billed directly by the car rental Supplier, and are subject to change.
80. Age restrictions may apply. Some car rental Suppliers require You to be up to 25 years of age. Please check the car rental rules at time of online redemption or contact the *Wells Fargo Rewards* Service Center at 1-877-517-1358. A fee may apply for underage drivers. Renters must have a valid driver's license, major credit card for car rentals, and some Suppliers may require You to provide a good driving record. Suppliers reserve the right to deny car rentals for any reason, including past driving records.

## **Experiences**

81. If You do not show up for an experience, You will not be entitled to a refund. A Supplier reserves the right to change, cancel, or modify the date, length, or any inclusions of the Experience without notice. You or the reward recipient should reconfirm the booked Experience by calling the *Wells Fargo Rewards* Service Center at least 72 hours prior to the event date.

## **Merchandise And Gift Card**

82. Merchandise redemptions are subject to the rules of the merchant. The manufacturers' warranty, if any, applies to all merchandise offered.

83. Merchant gift cards are subject to the terms of the merchant issuer, including any applicable usage or dormancy fees, and expiration dates. Gift cards must be presented to the participating merchant for redemption, use and the delivery of goods and services.
84. Gift cards are non-redeemable for cash equivalent.
85. Gift cards cannot be used towards the purchase of gift cards.

### **Charitable Contributions/Donations**

86. Consult Your tax advisor about whether Your redemption of Rewards Currency towards a charitable contribution/donation is tax deductible.

## **Section 6: Dispute Resolution Program: Arbitration Provision**

This section ("Arbitration Provision") constitutes the arbitration agreement between You and Us and includes a mutual waiver of class action rights. This Arbitration Provision governs disputes concerning (1) interpretation of these Terms (including the meaning of this Arbitration Provision and whether a disagreement is a "dispute" subject to binding arbitration as provided for in this Arbitration Provision); (2) the Program; or (3) the Program's related services or matters (collectively and each a "Covered Dispute(s)").

### **A. Non-judicial resolution of disputes**

You and We agree that any Covered Dispute between or among You and Us, regardless of when it arose, will, upon demand by either You or Us, be resolved by the following arbitration process. **You understand and agree that You and We are each waiving the right to a jury trial or a trial before a judge in a public court.** As an exception to this Arbitration Provision, both You and We retain the right to pursue in small claims court in the state where You reside any dispute that is within that court's jurisdiction.

### **B. Definition of disputes**

A dispute is any unresolved disagreement between or among You and Us. It includes claims based on broken promises or contracts, torts (injuries caused by negligent or intentional conduct) or other wrongful actions. It also includes statutory, common law, and equitable claims. A dispute also includes any disagreement about the meaning of this Arbitration Provision, and whether a disagreement is a "dispute" subject to binding arbitration as provided for in this Arbitration Provision.

### **C. Binding arbitration; waiver of class action rights; severability**

Binding arbitration is a means of having an independent third party resolve a Covered Dispute without using the court system, judges or juries. Either You or We may require the submission of a Covered Dispute to binding arbitration at any reasonable time notwithstanding that a lawsuit or other proceeding has been commenced. If either You or We fail to submit to binding arbitration following a lawful demand, the one who fails to so submit bears all costs and expenses (including attorney's fees and expenses) incurred by the other in compelling arbitration.

**Neither You nor We will be entitled to join or consolidate Covered Disputes by or against others in any arbitration, or to include in any arbitration any Covered Dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity.**

Each arbitration, including the selection of the arbitrator will be administered by the American Arbitration Association ("AAA"), or such other administrator as You and We may mutually agree to (the AAA or such other mutually agreeable administrator to be referred to hereinafter as the "Arbitration Administrator"), according to the Commercial Arbitration Rules and the Supplemental Procedures for Consumer Related Disputes ("AAA Rules"). To the extent that there is any variance between the AAA Rules and this Arbitration Provision, this Arbitration Provision will control. Arbitrator(s) must be a member of the state bar where the arbitration is held, with expertise in the substantive laws applicable to the subject matter of the Covered Dispute.

You and We each agree that in this relationship (1) You and We are participating in transactions involving interstate commerce; (2) The arbitrator shall decide any dispute regarding the enforceability of this Arbitration Provision; and (3) Each arbitration is governed by the provisions of the Federal Arbitration Act (Title 9 of the United States Code), and, to the extent any provision of that Act is inapplicable, unenforceable or invalid, the laws of the state of South Dakota.

To find out how to initiate an arbitration, please call any office of the AAA or visit the AAA website at [www.adr.org](http://www.adr.org).

If any of the provisions of this arbitration agreement dealing with class action, class arbitration, private attorney general action, other representative action, joinder, or consolidation is found to be unlawful or unenforceable, that invalid provision shall not be severable and this entire arbitration agreement shall be unenforceable.

**D. Rights preserved**

This Arbitration Provision and the exercise of any of the rights You and We have under this Arbitration Provision do not stop You or Us from exercising any lawful rights to use other remedies available to preserve, foreclose, or obtain possession of real or personal property; exercise self-help remedies, including setoff and repossession rights; or obtain provisional or ancillary remedies such as injunctive relief, attachment, garnishment, or court appointment of a receiver by a court having jurisdiction.

**E. Miscellaneous**

You and We each agree to take all steps and execute all documents necessary for the implementation of arbitration proceedings. The arbitrator may hear and rule on appropriate dispositive motions as part of the arbitration proceeding, such as motions for judgments on the pleadings, summary judgment, or partial summary judgment. The AAA, the arbitrators, You and We, must, to the extent feasible, take any necessary action to ensure that an arbitration proceeding, as described in this Arbitration Provision, is completed within 180 days of filing the Covered Dispute with the AAA. These parties must not disclose the existence, content, or results of the arbitration, except for disclosures of information required in the ordinary course of business or permitted by applicable law or regulation. This provision will be liberally construed in order to ensure the enforcement of this Arbitration Provision. Arbitration proceedings are conducted in the state where You reside or at a location determined by the AAA.

All statutes of limitations applicable to any Covered Dispute apply to any arbitration between You and Us. The provisions of this Arbitration Provision will survive termination, amendment, or expiration of Your participation in the Program or any other relationship between You and Us. This Arbitration Provision constitutes the entire agreement between You and us related to arbitration of a Covered Dispute and supersedes all prior arrangements and other communications concerning dispute resolution.

**F. Fees and expenses of arbitration**

Arbitration fees shall be determined by the rules or procedures of the Arbitration Administrator, unless limited by applicable law. Please check with the Arbitration Administrator to determine the fees applicable to any arbitration You may file. If the law applicable to this Agreement limits the amount of fees and expenses to be paid by You, then no allocation of fees and expenses to You shall exceed this limitation. Unless inconsistent with applicable law, each of Us shall bear the expense of our own attorney, expert and witness fees, regardless of which of Us prevails in the arbitration.