

# Agreement For Use Of Our Website

## PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THIS SITE

This website (the "Site") is provided by Genesis FS Card Services, Inc. ("we," "us," "our" or "Genesis"). By accessing and/or using the Site, you agree to the terms and conditions of this Agreement for Use of Our Website (this "Agreement") just as if you had signed it. If you do not agree to abide by the Agreement, do not use the Site or access materials from the Site.

This Agreement applies exclusively to your access to and use of the Site, and does not alter any other agreement you may have with us or any issuing bank with which you have an account that we service. Any products or services that you obtain from or through us are also subject to the agreements relating to those products and services. If there is a conflict between this Agreement and any of the agreements relating to those products and services, the agreements relating to those products and services shall govern. Use of the Site is also subject to other policies described in the Site and additional restrictions displayed on the Site. By using the Site, you also consent and agree to our [Privacy Policy](#) applicable to this Site.

We reserve the right to modify this Agreement at any time without notice. Any changes to this Agreement will be effective upon posting of such updated terms on the Site. The most current version of the Agreement will be available to you by clicking the link at the bottom of the Site. By continuing to access or use the Site after the date of any change to this Agreement, you agree to be bound by such terms and conditions contained in the most recent version of this Agreement. We may terminate, change, suspend or discontinue any aspect of the Site, including the availability of any features of the Site, at any time. We also may impose limits on certain features and services or restrict your access to part or all of the Site without notice or liability.

### USE OF THE SITE:

The Site may be used for obtaining information about us, our products, products of third parties offered through this Site, to transact business with us, or to transact business with third parties through this Site. In order to access the Site, you must be at least 18 years old and a resident of the United States or its territories. We do not knowingly market to, solicit or collect information from individuals under the age of 18 or non-residents of the United States or its territories. If you are under the age of 18 years old or reside outside the United States or one of its territories, please do not access or use this Site. If you access or use the Site, you are affirming that you are at least 18 years old and a resident of the United States or its territories. Access to the Site from territories where its contents are illegal is prohibited. If we learn that we have been provided with personally identifiable information of children under the age of 13, we will delete that information from our systems.

### MONITORING:

We have no obligation to monitor the use of the Site. However, you acknowledge and agree that we reserve the right to, and may from time to time, consistent with our Privacy Policy applicable to this Site, monitor any and all use of the Site. During monitoring, information may be examined, recorded, copied and used for authorized purposes in accordance with our Privacy Policy and applicable privacy laws and regulations. By using the Site, you consent to such monitoring.

Additionally, we reserve the right to investigate suspected violations of the Agreement and other potentially illegal conduct. Any violation of the Agreement or of any applicable law or regulation may be referred to law enforcement authorities.

### INFORMATION PROVIDED BY YOU:

By disclosing, submitting or conveying information to us, including but not limited to information provided through the "Contact Us" feature (collectively referred to as "Comments"), you grant us an unrestricted,

irrevocable, royalty-free license to use, reproduce, display, publicly perform, transmit and distribute the Comments consistent with our Privacy Policy. You further warrant that: (i) any use of Comments by us or others will not violate any right of any third party; and (ii) any Comments are not defamatory, unlawful, threatening, harassing or obscene, and do not incorporate the proprietary content of others.

**TERMINATION:**

We reserve the right, without notice and liability, to terminate your use of the Site at our sole discretion.

**USER CONDUCT:**

You agree not to: (1) disrupt or interfere with the security of, or otherwise abuse, the Site or any services, system resources, accounts, servers or networks connected to or accessible through the Site or affiliated or linked web sites; (2) disrupt or interfere with any other user's access, use or enjoyment of the Site or affiliated or linked web sites; (3) upload, post or otherwise transmit through or on the Site any viruses or other harmful, disruptive or destructive files; (4) use or attempt to use or access another person's account or personal information, or create or use a false identity on the Site; (5) attempt to obtain unauthorized access to the Site or portions of the Site which are restricted from general access; and (6) violate any local, state or federal laws or regulations that apply to your access to or use of the Site. You further agree that you are solely responsible for actions and communications undertaken or transmitted under your Account.

You may not use any robot, spider or other device to monitor, "scrape" or otherwise copy or duplicate Content on the Site.

We reserve the right to seek all remedies available at law and in equity for violations of the Agreement. Our failure to act with respect to a breach of the Agreement by you or others does not constitute a waiver and will not limit our rights with respect to such breach or any subsequent breaches. No waiver by us will be in full force and effect unless made in writing and signed by a duly authorized officer.

**PASSWORDS:**

We may establish an account on the Site for you ("Account") in which you can obtain information, from time to time, about your business with us. Access to your Account at the Site requires you to use a login identification ("Login ID") and password ("Password") that you select. We may set standards for your Login ID and Password. We recommend that you change your password regularly, and select a unique Login ID and Password combination for use only with your Account. You agree to keep your Login ID and Password confidential and not share them with anyone else. We may treat any person using your Login ID and Password to have authority to access your Account and act on your behalf with respect to your business with us.

You are responsible for: (i) actions taken by anyone using the Site after signing in with Login ID and Password. We are entitled to rely and act upon instructions received under your Login ID and Password; (ii) keeping your Login ID and Password confidential; (iii) ensuring that you have signed off from the Site and/or your Account when your session is complete to prevent unauthorized persons from using your Account; (iv) ensuring your computer operating system, software, browser version, plug-ins, and anti-virus software are all current and up-to-date; (v) ensuring you have a valid email address.

You agree that you will: (i) be the only user of your Login ID and Password, that you won't transfer or disclose this information to any other person; (ii) be responsible for all usage of the Site and any fees associated with use of services accessed through the Site on your Account, whether or not authorized by you; (iii) immediately notify us to report any actual or suspected unauthorized use of your Login ID or Password; (iv) provide true, accurate, current and complete information about yourself as requested; (v) not misrepresent your identity; (vi) not use the Site for illegal purposes; (vii) comply with all regulations, policies, and procedures of networks through which you access and use the Site; (viii) not use the Site in a way that disrupts the Site, the services

offered through the Site, or the networks through which you access or use the Site; (ix) not access or attempt to access any Account for which you have no access authorization, or duplicate, modify, distribute, or display any of the data or files from any such Account; (x) be responsible for and provide all computer, telephone, and other equipment, software (other than any software provided by us) and services necessary to access the Site.

**OWNERSHIP OF CONTENT:**

The Site, including past, present and future versions, information, content available for download, domain names, images, photographs, animation or video clips, source code, object code, HTML and other codes, audio, music, text and the "look and feel" of the Site ("Site Materials") are owned or licensed by us or our affiliates, and are protected from unauthorized use, copying and dissemination by U.S. copyright, trademark, patent and other laws, rules and regulations. By using this Site, you agree to comply with all such laws and acknowledge that we do not grant you any express or implied right under copyright, patent, trademark, or trade secret law. You may not reproduce, transmit, remove, modify, copy, display, sell or in any way use any of content or materials on or within the Site without our express consent. All content remains exclusively ours, and nothing in the Agreement shall be read as a transfer of title.

The trademarks, logos, and service marks displayed on the Site (collectively, the "Trademarks") are the registered and unregistered trademarks of Genesis or third parties. You may not use, copy, alter, modify, or change these Trademarks or copy, display, distribute, transfer, link to, reproduce, license, frame, alter, create derivative works of, or republish all or any portion of the Trademarks or Site Materials for any commercial or public purpose. The Site does not grant (by implication or otherwise) any license or right to use any Trademarks or Site Materials without the express written permission of Genesis or the third party that has rights to such Trademarks or Site Materials.

**DIGITAL MILLENNIUM COPYRIGHT ACT NOTICE:**

We will promptly process, investigate and respond to all claims of intellectual property infringement and will take appropriate action under the Digital Millennium Copyright Act and other applicable intellectual property laws. Upon receipt of a notice that complies with the Digital Millennium Copyright Act, we will act to promptly remove or disable access to any material claimed to be infringing or claimed to be the subject of infringing activity and to any reference or link to material or activity claimed to be infringing. Provide notice of claimed copyright infringement to one of the addresses or numbers below:

**By Mail:**

Genesis Financial Solutions  
Attn: Compliance Department  
15220 NW Greenbrier Parkway Suite 200  
Beaverton, OR 97006

**By Facsimile:** 1-503-268-4711

**By Email:** [infringementnotice@genesis-fs.com](mailto:infringementnotice@genesis-fs.com)

Please include in the subject line the word "copyright" for all claims of copyright infringement and the words "intellectual property" for all claims of any other intellectual property infringement.

**THIRD PARTY SITES:**

The Site may contain links to third party services and resources. If you use these third party sites, you will leave our site and will do so at your own risk including but not limited to risk of viruses or other disruptive or destructive files. We do not control the availability and content of these third party sites. Any concerns regarding any such service or resource, or any link thereto, should be directed to the particular third party

service or resource that provides the content. The existence of a link to a third party site does not constitute our endorsement or recommendation of the third party or the third party's site and does not constitute a warrant that the third party site is authorized to use any trademark, trade name, logo or copyright displayed or accessible through the link. WE DISCLAIM ALL LIABILITY FOR ANY LOSS OR DAMAGES ARISING FROM THE CONTENT OR PROVISION OF SERVICES OF ANY THIRD PARTY SERVICE OR RESOURCE.

**LINKS TO THE SITE:**

You must receive our prior written permission before creating a link to the Site. Any unauthorized links or false or misleading uses of the Site or our trademarks or service marks are prohibited.

**ALERTS:**

We may automatically send you certain alert messages via email and/or by other means, including to your mobile device. These messages may include, but are not limited to, notifications about recent account activity or about the availability of online statements. You acknowledge and agree that: (a) Alerts may not be sent encrypted, and may include your name and information pertaining to your account(s); and (b) you may not modify, change, or alter the content of any alert message that we send to you. Receipt of any of the alerts we send, whether they are automatic alerts or otherwise, may be delayed or prevented by factor(s) affecting your internet/phone provider or other circumstances. We are not liable for losses or damages arising from: (i) non-delivery, delayed delivery, or erroneous delivery of any alert; (ii) inaccurate alert content; (iii) your use or reliance on the contents of any alert for any purposes. The information in any alert may be subject to certain delays.

**ONLINE STATEMENTS AND DOCUMENTS:**

Certain account documents - including statements - can be delivered online through the Site. You have the option to view, save, or print PDF versions of your account documents from the Site.

Any legal notices or disclosures about your Account that would normally accompany your paper account statement, or that we would mail to you, may be delivered to you electronically. In some cases, we must continue to mail paper statements, legal notices and disclosures even if you elect to receive them electronically. We are not responsible for statement non-delivery if you do not maintain a valid email address with us.

Online statements and documents are available for your Account if you have completed enrollment for that service on this Site and have provided us with a valid email address. Once enrolled, we will send you an email notice notifying you when your statement or document is available on the Site. To ensure that you continue to receive such email notifications, you must notify us of any changes or updates to your email address. We may revoke your online-only statement and document option and change your delivery preference to U.S. Mail if you don't maintain a valid email address.

You can access your online statements and documents (including legal notices and disclosures) on the Website. There may be a delay of up to several weeks after enrollment before you can start viewing statements and documents online.

**NOTICES AND COMMUNICATIONS:**

**Delivery of Information.** Except as expressly provided otherwise in this Agreement, we'll provide notices and other information regarding your Account electronically, through the mail or by other means. We'll send this information to the postal or email address ("E-Address") for you in our records, unless you specify a different postal or email address. Any Account-related information will be considered "sent" on the date on the communication.

Account-related information posted on this Site will be deemed to be delivered to/received by you when we display it to you or send notice in accordance with this Agreement that it is posted on our Site.

Unless applicable law states otherwise or pursuant to the E-SIGN Consent to Use Electronic Records and Signatures, when we need to provide you with information in writing, we can send it electronically, either: (a) to your E-Address (if applicable and you have provided us with a valid email address); or (b) by posting the information to our Site.

**Telephone Monitoring and Recording; Communications.** You consent and agree that, except as restricted by applicable law, we may monitor and/or record telephone calls regarding your Account, suppress caller identification services, use prerecorded messages, and use an automated telephone dialing and announcing system. You expressly consent that we and our agents, any servicer, or any subsequent owner of your Account may (i) contact you at any cellular telephone number that you provided as part of your application, at any number that you later provide (including, without limitation, after your Account is in a default status), or at any other number that is identified as related to you, including by text message, and (ii) use automated telephone dialing systems to initiate such contacts and/or leave recorded messages.

If you provide us at any time with an email contact for your Account, you agree we may use that email address to contact you about your Account and may send you information about products and services related to your Account.

We or our representatives may contact you from time to time regarding the Account, or to ask for additional information about you or your experience with us. You agree that such contacts are not unsolicited and may include contacts at your home or place of employment, during weekdays, weekends or holidays, on your mobile telephone, voicemail or answering machine, or by email, fax, recorded message, text message or personal visit.

**How to Revoke Consent for Future Communications.** If you want to revoke your consent to future communications as described in the previous paragraph, you must send us a written notice that includes: (i) your name, mailing address, and Account number(s); (ii) the specific telephone number(s), email address(es) and/or mailing address(es) at which you no longer wish us to contact you, and (iii) the types of communications (telephone, text, email, and/or mail) for which you are revoking consent. You must send this written notice to: Genesis FS Card Services, PO Box 4477, Beaverton, OR 97076. You understand and agree that it may take up to three business days after receipt of your written notice to process your request, and that you consent to continued communications during this period of time.

**Returned and Unclaimed Information.** Unless otherwise prohibited by the laws governing your Account, this sub-section applies if Account-related information documents are returned or electronic notifications are returned as undeliverable. This means we can stop sending Account-related information or electronic notifications to you until you provide a valid postal or valid email to us. We may also: (i) destroy Account-related information sent to you and returned to us as undeliverable; (ii) stop sending the Account-related information through the current delivery method and use an alternative delivery method; (iii) suspend access to your Account.

**Implementation of Notices.** Any notice you send us won't be effective until we actually receive it and have a reasonable opportunity to act on it. You assume the risk of loss in the mail or other transit. Any notice or Account-related information we send you will be effective when mailed, sent electronically, or otherwise made available to you.

**DISCLAIMER AND LIMITATION OF LIABILITY:**

All information provided on the Site (the "Information") is subject to change without notice. While efforts have been made to make the Site helpful and accurate, we do not warrant that the Information is accurate, free of typographical errors, complete, or reliable, and you acknowledge that reliance on Information is at your sole risk. We do not warrant that use of the Site or use of any Content downloaded from the Site will be virus-free or free of disruptive or destructive files. We do not make any representation that any content or use of this Site is appropriate or available for use in locations outside of the United States.

We will not be obligated to honor, in whole or in part, any transaction or instruction that: (i) is not in accordance with any term or condition of this Agreement or any other agreement that applies to the relevant online services or Account; (ii) we have reason to believe may not be authorized by you or any other person whose authorization we believe necessary; (iii) we have reason to believe involves funds or other property subject to a hold, dispute, restriction, or legal process we believe prevents the transaction or instruction; (iv) would violate any applicable provision of any applicable law, rule or regulation; (v) is not in accordance with any other requirement of our policies, procedures, or practices; (vi) we have reasonable cause not to honor for our or your protection.

YOU ACKNOWLEDGE, BY YOUR USE OF THE SITE, THAT SUCH USE IS AT YOUR SOLE RISK AND THAT WE WILL NOT BE LIABLE FOR ANY DAMAGES, INCLUDING WITHOUT LIMITATION, DIRECT, INDIRECT, PUNITIVE, ECONOMIC, EXEMPLARY, SPECIAL, INCIDENTAL, CONTINGENT, CONSEQUENTIAL, RELIANCE OR SPECIAL DAMAGES, ATTORNEY'S FEES, LOSSES OR EXPENSES ARISING IN CONNECTION WITH YOUR USE OF THE SITE, WHETHER OR NOT YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE ASSUME NO LIABILITY FOR ANY DAMAGES SUFFERED BY YOU, INCLUDING BUT NOT LIMITED TO, LOSSES FROM DELAYS, NON-DELIVERABLES OF CONTENT, ANY ACTION TAKEN IN CONNECTION WITH AN INVESTIGATION BY LAW ENFORCEMENT AUTHORITIES REGARDING YOUR USE OF THE SITE, ANY ACTION TAKEN IN CONNECTION WITH COPYRIGHT OR INTELLECTUAL PROPERTY OWNERS, COMMUNICATIONS, ERRORS, SYSTEM DOWNTIME, DATA BREACHES, MISCOMMUNICATIONS, NETWORK OR SYSTEM OUTAGES, FILE CORRUPTION, VIRUSES, DAMAGE TO YOUR COMPUTER, MOBILE DEVICE OR OTHER EQUIPMENT, DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, LOSS OF DATA, WORK STOPPAGE OR SERVICE INTERRUPTIONS OR ANY ERRORS OR OMISSIONS WHETHER IN CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHER LEGAL OR EQUITABLE BASIS. IN ADDITION, WE WILL NOT BE LIABLE FOR ANY FAILURE OF AVAILABILITY OR PERFORMANCE OF THE SITE OR THE SERVICES OFFERED THROUGH IT DUE TO SCHEDULED SYSTEM MAINTENANCE OR CIRCUMSTANCES BEYOND OUR CONTROL (E.G., POWER OUTAGE, COMPUTER VIRUS, SYSTEM FAILURE, FIRE, FLOOD, EARTHQUAKE, EXTREME WEATHER).

IN NO EVENT WILL OUR TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND/OR CAUSES OF ACTION EXCEED ONE HUNDRED UNITED STATES DOLLARS (\$100.00).

APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

THE SERVICES PROVIDED BY US WITH RESPECT TO THE SITE AND ALL CONTENT ON THE SITE ARE PROVIDED "AS IS," ON A "WITH ALL FAULTS" BASIS, AND, WE DO NOT WARRANT THAT THE SITE OR ITS CONTENT WILL BE TIMELY, SECURE OR ERROR FREE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE DISCLAIM ALL WARRANTIES EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR ANY PARTICULAR PURPOSE AND ANY WARRANTY THAT THE SERVICES SUPPLIED UNDER THIS AGREEMENT ARE OF A REASONABLY ACCEPTABLE QUALITY. WE DO NOT WARRANT THAT FUNCTIONS CONTAINED ON THE SITE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED OR THAT THE SITE, CONTENT OR THE SERVER ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

WE WILL NOT BE LIABLE FOR UNAUTHORIZED ACCESS BY THIRD PARTIES TO YOUR TRANSMISSION FACILITIES OR PREMISES EQUIPMENT OR FOR UNAUTHORIZED ACCESS TO OR ALTERATION, THEFT, LOSS OR DESTRUCTION OF YOUR NETWORK, SYSTEMS, APPLICATIONS, DATA FILES, PROGRAMS, PROCEDURES OR INFORMATION THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES OR ANY OTHER METHOD.

IN ADDITION, EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT OR OTHER REQUIRED BY APPLICABLE LAW, WE, OUR SERVICE PROVIDERS OR OTHER AGENTS ALSO WON'T BE LIABLE FOR ANY LOSS OR LIABILITY YOU MAY INCUR RESULTING WHOLLY OR PARTLY FROM FAILURE OR MISUSE OF YOUR EQUIPMENT OR SOFTWARE PROVIDED BY AN EXTERNAL COMPANY.

BY ACCESSING AND USING THE SITE, YOU UNDERSTAND THAT YOU MAY BE WAIVING RIGHTS WITH RESPECT TO CLAIMS THAT ARE AT THIS TIME UNKNOWN, AND YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD AND EXPRESSLY WAIVED THE BENEFITS OF ANY FEDERAL OR STATE LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS TO WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH OR RELEASE OF THE DEBTOR.

**INDEMNITY:**

You agree to defend, indemnify and hold us and our subsidiaries, affiliates, successors and assigns, and our and their respective shareholders, directors, officers, employees and agents, harmless from and against any and all claims, investigations, liability, judgments, settlements, damages, costs and expenses, including but not limited to attorneys' fees, arising from or relating to your use of the Site, except to the extent that we fail to perform our express obligations to you under this Agreement. You further agree to cooperate fully in the defense of any claim or any investigation in which both you and we are named parties and additionally agree that we reserve the right to assume the exclusive defense and control of any matter subject to indemnification by you. You expressly agree that you will not settle any claim without our prior written content. You are providing this indemnification without regard to whether our claim for indemnification is due to the use of the Site by you, an authorized user of your Account, or your representative.

**MANDATORY ARBITRATION:**

**READ THIS PROVISION (the "Arbitration Provision") CAREFULLY AS IT WILL HAVE A SUBSTANTIAL IMPACT ON HOW DISPUTES AND CLAIMS THAT YOU AND/OR WE HAVE AGAINST EACH OTHER ARE RESOLVED.**

You and we agree that any claim, dispute or controversy between you and us (a "Claim") will be resolved, upon the election of either you or us, by mandatory, binding arbitration. "Claim" shall be construed broadly to include any matter arising out of or relating to this Agreement or the relationship between you and us, including, without limitation, (i) claims based on broken promises or contracts; (ii) torts (injuries caused by negligent or intentional misconduct; (iii) statutory, common law, and equitable claims; (iv) any disagreement about the meaning of this Arbitration Provision; (v) whether a disagreement is a "dispute" subject to binding arbitration as provided for in this Arbitration Provision.

For the avoidance of doubt, disputes arising under or related to a separate agreement between you and the Issuer of your Account are governed by the dispute resolution and governing law of that agreement, which takes precedence over this Section.

**For a Claim subject to arbitration, neither you nor we will have the right to: (1) have a court or a jury decide the Claim; (2) engage in information-gathering (discovery) to the same extent as in court; (3) participate in a class action in court or in arbitration; or (4) join or consolidate your Claim(s) with claims of any other person. The right to appeal is more limited in arbitration than in court and other rights in court may be unavailable or limited in arbitration.**

Binding arbitration lets an independent third party resolve a Claim without using the court system, judges, or juries. Either you or we may require the submission of a Claim to binding arbitration at any reasonable time, even if a lawsuit or other proceeding has begun. If either you or we don't 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.

**Arbitration Provision Governing Law.** Notwithstanding any choice of law or other provision in this Agreement, you and we agree and acknowledge that this Arbitration Provision evidences a transaction involving interstate commerce and that the Federal Arbitration Act (Title 9 of the United States Code) ("FAA") will govern its interpretation and enforcement and proceedings pursuant thereto. Any state Arbitration Act or Code, including any amendments thereto, of the state law governing this document does not apply to this Agreement to any arbitration or award under this Agreement.

**Arbitration Administrator and Arbitration Rules.** Each arbitration, including the selection of the arbitrator, will be administered by the American Arbitration Association ("AAA") or such other administrator that you and we mutually agree to (the AAA or such other mutually agreeable administrator to be referred to here as the "Administrator"), according to the Commercial Arbitration Rules and the Consumer Arbitration Rules ("AAA Rules"). To the extent that there is any variance between the AAA Rules and this Arbitration Provision, this Arbitration Provision will control.

**Arbitration Procedures.** If you or we elect to arbitrate a Claim, the electing party must notify the other party in writing. This notice can be given after the beginning of a lawsuit and can be given in papers filed in the lawsuit. Otherwise, we may send notice of arbitration to you at the most recent address we have on file for you (or, if we have no address on file, the most recent address we can find for you), and you may send notice of arbitration to us at P.O. Box 4477, Beaverton, Oregon 97076. If such a notice is given, the Claim(s) described in the notice will be resolved by individual arbitration under this Arbitration Provision. To find out how to initiate arbitration, please call any office of AAA or visit the AAA Website at [www.adr.org](http://www.adr.org).

A single arbitrator will be appointed by the Administrator and, unless you and we agree otherwise, must be a practicing attorney with 10 or more years of experience or a retired judge. The arbitrator will not be bound by judicial rules of procedure and evidence that would apply in a court, nor by state or local laws that relate to arbitration provisions or proceedings. Rather, as indicated above, the arbitration shall be governed by the AAA Rules. With respect to substantive law, the arbitrator will honor and enforce statutes of limitation and claims of privilege recognized under applicable law. In determining liability and/or awarding damages or other relief, the arbitrator will follow the applicable substantive law (consistent with this Agreement and the FAA) that would apply if the matter had been brought in court. The arbitrator may award any damages or other relief or remedies permitted by applicable law. The arbitrator will write a brief explanation of the grounds for the decision. A judgment on the award may be entered by any court having jurisdiction.

**Arbitration Location and Costs.** Arbitration fees shall be determined by the rules or procedures of the Administrator, unless limited by applicable law. Please check with the Administrator to determine the fees that apply to any arbitration you may file. If the law that applies to this Agreement limits the amount of fees and expenses you have to pay, then no allocation of fees and expenses to you shall exceed that limitation. In addition, the Administrator may have a procedure whereby you can seek a waiver of fees that the Administrator and arbitrator charge you. 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.

**Class Action Waiver and Related Waivers.** Notwithstanding any other provision of this Agreement, if either you or we elect to arbitrate a Claim, neither you nor we will have the right (1) to participate in a class action,



private attorney general action or other representative action in court or in arbitration, either as a class representative or class member; or (2) to join or consolidate Claims with claims of any other persons. No arbitrator will have authority to conduct any arbitration in violation of this provision; provided, however, that the Class Action Waiver does not apply to any lawsuit or administrative proceeding that a state or federal government agency files against us, even when such agency is seeking relief on behalf of a class of persons, including you. This provision means that we will not have the right to compel arbitration of any claim brought by such an agency. You and we acknowledge that the Class Action Waiver is material and essential to the arbitration of any disputes between us and is non-severable from this Arbitration Provision. If the Class Action Waiver is limited, voided, or found unenforceable, then this Arbitration Provision (except for this sentence) will be null and void with respect to such proceeding, subject to the right to appeal the limitation or invalidation of the Class Action Waiver, you and we acknowledge and agree that under no circumstances will a class action be arbitrated.

**Effect of Arbitration Award.** The arbitrator's award will be final and binding on all parties, except for any right of appeal provided by the FAA. However, if the amount of the Claim exceeds \$50,000 or includes a request for injunctive or declaratory relief that could foreseeably involve a cost or benefit to you or us exceeding \$50,000, either you or we may, within 30 days after the entry of the award by the arbitrator, appeal the award to a three-arbitrator panel that the Administrator oversees. The panel will reconsider anew any aspect of the initial award that the appealing party requests. The decision of the panel will be by majority vote. Reference in this Arbitration Provision to "the arbitrator" will mean the panel if an appeal of the arbitrator's decision has been taken. The costs of such an appeal will be borne in accordance with the above paragraph titled "Arbitration Location and Costs." Any final decision of the appeal panel is subject to judicial review only as provided under the FAA.

**Continued Effect of Arbitration Provision, Severability and Conflicts.** Notwithstanding any other provision of this Agreement, to the extent permitted by applicable law, this Arbitration Provision will survive the termination of this Agreement or our relationship, and your or our bankruptcy or insolvency. If any portion of this Arbitration Provision (other than the Class Action Waiver) cannot be enforced, the rest of this Provision will continue to apply. In the event of a conflict between this Arbitration Provision and any applicable rules of AAA or other Administrator used, the provisions of this Arbitration Provision will control.

**Excluded Claims or Proceedings.** None of the following claims will be subject to the Arbitration Provision: (1) any dispute or controversy about the validity or enforceability of this Arbitration Provision or any part thereof including, without limitation, the Class Action Waiver and/or this sentence (all such disputes or controversies are for a court and not an arbitrator to decide); provided, however, any dispute or controversy that concerns the validity or enforceability of other sections of this Agreement is for the arbitrator, not a court, to decide; (2) any individual action brought by you or us in small claims court or your state's equivalent court, unless such action is transferred, removed or appealed to a different court; (3) any self-help or non-judicial remedy; (4) any action to the extent that it seeks provisional or ancillary remedies in connection with the foregoing; and (5) any individual action in court by one party that is limited to preventing the other party from using a self-help remedy and that does not involve a request for damages or monetary relief of any kind. The institution and/or maintenance of any such right, action or litigation will not constitute a waiver of the right of either you or us to compel arbitration regarding any other dispute subject to arbitration pursuant to the Arbitration Provision.

#### **ENFORCEMENT AND CHOICE OF LAW:**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to its conflict of laws principles. If any part of this Agreement is unenforceable, such part will not make any other part of this Agreement unenforceable, except that if the part of the Arbitration Provision prohibiting arbitration involving a class action or multiple claimants is unenforceable, all of the Arbitration Provision in this Agreement shall be unenforceable. By using the Site, for any claims that are not arbitrated, you agree to submit

to the personal and exclusive jurisdiction of the state and federal courts located in Washington or Multnomah Counties, Oregon.

**ENTIRE AGREEMENT; INTERPRETATION:**

Subject to the terms of any other agreement(s) applicable to any products or services accessed or purchased by you from us, this Agreement constitutes the entire agreement between you and us governing your access to and use of this Site. The headings used in this Agreement are for the convenience of reference only and are not intended to define or describe the scope or intent of any portion of the Agreement. You agree that the Agreement will not be construed against us by virtue of our having drafted the Agreement. Our failure to act with respect to a breach of the Agreement by you or others does not waive our right to act with respect to subsequent or similar breaches.

**OUR PRIVACY POLICY:**

Our [Privacy Policy](#) describes the types of information that we may collect when you visit the Site and how we may disclose that information. By using the Site, you agree to the terms of our Privacy Policy.

**CONTACT INFORMATION:**

If you have questions about this Agreement, please write to us at Genesis FS Card Services, P.O. Box 4477, Beaverton, Oregon 97078, or call the toll-free customer service phone number on your billing statement.

**EFFECTIVE DATE:**

October 1, 2020