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# *Terms and Conditions for Certificate of Deposit Accounts*

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Effective December 1, 2015

Including:

- Arbitration Agreement
- Early Withdrawal Penalties



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**TERMS AND CONDITIONS FOR CERTIFICATES**

**This booklet states the terms and conditions of your account contract with TCF. Please read carefully and keep it for your records.**

**IMPORTANT NOTICE CONCERNING FDIC INSURANCE**

TCF is a member of the Federal Deposit Insurance Corporation (FDIC). The FDIC is an independent agency of the United States government that protects the funds depositors place in financial institutions. FDIC insurance is backed by the full faith and credit of the United States government.

FDIC insurance covers all types of deposits you have at TCF, including deposits in a checking account, negotiable order of withdrawal account, savings account, money market deposit account or time deposit, such as a certificate of deposit.

FDIC insurance covers depositors’ accounts at each insured bank, dollar-for-dollar, including principal and any earned interest through the date of the insured bank’s closing, up to the insurance limit. There is no cost to you for this insurance. The FDIC sets the limits for FDIC insurance coverage. To find the current deposit insurance limit per depositor, per insured bank, and for each account ownership category, please go to [www.FDIC.gov](http://www.FDIC.gov) or contact us.

**IMPORTANT NOTICE CONCERNING EARLY WITHDRAWAL PENALTIES**

Certificates of Deposit are subject to early withdrawal penalties. The early withdrawal penalty for all automatically renewing Accounts is generally 1% of the amount withdrawn for each year of the Certificate’s Term at the time of withdrawal, not to exceed 3 years. However, the penalty will never be less than \$25 or seven days’ interest.

See the section called “Early Withdrawal Penalties” below for more information on how and when this penalty applies and for the penalties on Jumbo Certificates.

**IMPORTANT NOTICE CONCERNING ARBITRATION**

**Your account contract includes an arbitration agreement. If there is a dispute between you and TCF, and the dispute is covered by the arbitration agreement, then either you or TCF may require the dispute to be resolved by arbitration in front of an arbitrator. This means that you and TCF will not have the right to a jury or court trial to resolve the dispute or the right to pursue a claim as a class action. You have the right to reject the arbitration agreement. See the section called “Arbitration of Disputes” for more information.**

## GENERAL TERMS APPLYING TO ALL CERTIFICATE ACCOUNTS

### General Definitions

**“Account”** means any savings account you have with TCF where your account is evidenced by a Certificate of Deposit. If you have more than one Certificate of Deposit from TCF, “Account” means all the savings accounts represented by your Certificates.

**“Account Agreement”** means the agreement you sign when opening your Account. Your Account Agreement is part of your Account Contract.

**“Account Balance”** means your opening deposit plus any interest accrued (earned) and added to your Account during the Term of your Account. “Account Balance” does not include interest after we pay it directly to you, or after you withdraw it during the Term.

**“Account Contract”** has the meaning stated in the section called “Your Contract With TCF.”

**“Affiliate”** means any company owned directly or indirectly by TCF or TCF Financial Corporation.

**“Business Day”** means Monday through Friday, but excludes New Year’s Day, Martin Luther King, Jr. Day, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

**“Certificate of Deposit”** or **“Certificate”** is evidence of an Account you have with TCF. An Account evidenced by a Certificate does not allow you or us to change the interest rate before the Maturity Date, except as stated otherwise in your Account Contract.

The term includes Certificates of Deposit for Accounts that renew automatically on the Maturity Date for the same Term, and Jumbo Certificate Accounts that do not renew automatically on the Maturity Date. Unless your Account Contract states otherwise (and except for Jumbo Certificate Accounts): (1) the minimum amount to open an Account evidenced by a Certificate of Deposit is \$500; and (2) you must maintain at least \$500 in your Account each day to earn the disclosed annual percentage yield.

**“Item”** means: (1) withdrawal requests from your Account; (2) account fees we charge to your Account; (3) holds we put on your Account; (4) other oral, written or electronic orders or instructions for the payment, transfer, or withdrawal of funds from your Account, including debit entries TCF initiates; and (5) deposits, credits, and additions to your Account.

**“Jumbo Certificate”** means a Certificate Account you have with TCF that does not renew automatically on the Maturity Date. Unless your Account Contract states otherwise: (1) the minimum amount to open a Jumbo Certificate Account is \$100,000; and

(2) you must maintain at least \$100,000 in your Account each day to earn the disclosed annual percentage yield.

**“Liable”** means legally responsible.

**“Maturity Date”** means the last day of a Term.

**“Noncash Item”** means checks, drafts, cashier’s checks, official bank checks, teller’s checks, money orders, and similar instruments and items.

**“Reload Certificate”** (where offered) means a Certificate Account you have with TCF that: (1) renews automatically on the Maturity Date for the same Term; and (2) gives you a one-time option to change the interest rate and extend the length of the Term (beginning on the date you change the interest rate) so the new Term is equal in length to the original Term. Unless your Account Contract states otherwise: (1) the minimum amount to open a Reload Certificate Account is \$500; and (2) you must maintain at least \$500 in your Account each day to earn the disclosed annual percentage yield.

**“Step-up Certificate”** (where offered) means a Certificate Account you have with TCF that: (1) renews automatically on the Maturity Date for the same Term; and (2) gives you a one-time option to change the interest rate during the original Term, but does not allow you to change the Term. Unless your Account Contract states otherwise: (1) the minimum amount to open a Step-up Certificate Account is \$500; and (2) you must maintain at least \$500 in your Account each day to earn the disclosed annual percentage yield.

**“TCF,” “TCF Bank,” “we,” “us,”** and **“our”** mean TCF® National Bank and our successors and assigns. Our “successor” is any company that assumes our rights under your Account Contract by operation of law. Our “assigns” is any company to which we transfer our rights under your Account Contract. TCF National Bank is a member of the FDIC. We are owned by TCF Financial Corporation.

**“Term”** means the length of time you have chosen to place your funds in an Account. The Term is stated in months for a Certificate of Deposit, Step-up Certificate, or Reload Certificate Accounts. The term is stated in days for Jumbo Certificate Accounts.

**“You”** and **“your”** mean each Account owner. If there is more than one Account owner, “you” and “your” mean each owner individually and all owners together.

Each owner has the power, individually and on behalf of all other owners, to: (1) make deposits to your Account, or withdrawals from your Account, by whatever means we allow; (2) get and release information concerning your Account; (3) sign any document concerning your Account; (4) give permission to others to act on your behalf concerning your Account; and (5) change the ownership on your Account. However, TCF requires all owners’ signatures for withdrawals and other instructions related to a tenants-in-common account.

**Contacting TCF**

Call: 1-800-TCF-BANK (823-2265)  
612-TCF-BANK (823-2265) (Twin Cities)

For TTY (hearing impaired) service, you may call us at 1-800-343-6145 or 612-339-3075.

Or write: TCF Bank  
Attn: Customer Service  
1405 Xenium Lane North  
Plymouth, MN 55441

**USA PATRIOT Act*****Important Information About Procedures for Opening a New Account***

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

***What This Means for You***

When you open an Account, TCF will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see identifying documents such as a driver's license or documents to show your existence as a legal entity, and other information about you.

**Sharing of Information**

You agree that we may, in the ordinary course of business, share with Affiliates and third parties (parties that are not Affiliates), any information about you or your Account. However, if your Account is a Consumer Account, the TCF Privacy Policy provides that you may direct us to not share certain non-public information about you or your Account.

You can get a current copy of the TCF Privacy Policy at any TCF branch, by contacting us (see the section called "Contacting TCF") or by visiting [tcfbank.com](http://tcfbank.com).

**Economic Sanctions**

The Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals.

Financial institutions, including TCF, are required to monitor all transactions executed by or through them to identify those that involve any entity or person subject to OFAC-administered laws and regulations. In some situations, an institution may be required to accept deposits and funds that they believe may be subject to OFAC-administered laws and regulations and then freeze them so that they cannot be withdrawn (called "blocking"). In other situations, the institution may be required to reject deposits or funds rather than accept and block them. In either case, the institution is required to notify OFAC.

You agree that TCF is not legally responsible to you for any actions we take or fail to take in a good faith attempt to comply with OFAC-administered laws and regulations.

**Your Contract with TCF**

You have a contract ("Account Contract") with TCF covering your Account. Your Account Contract consists of the following:

- These *Terms and Conditions for Certificate of Deposit Accounts*;
- Your *Account Agreement* (the agreement you sign when opening your Account);
- Your Account application (if applicable);
- Your Certificate of Deposit;
- TCF's *Deposit Account Services and Prices Schedule*;
- TCF's *Current Rates and Yields* schedule, or any separate TCF rate sheets for specific products;
- TCF Privacy Policy (as applicable);
- Deposit and withdrawal slips, and other forms you use to make deposits to, or withdrawals from, your Account; and
- Any additional agreements between you and TCF, and any additional disclosures TCF may give you.

By signing your Account Agreement, you agree to all the terms of your Account Contract. By opening or continuing your Account, or using any Account-related service, you confirm your agreement to all the terms of your Account Contract.

You should keep a copy of your Account Contract, along with any information we give you regarding changes to your Account Contract, for as long as you have your Account with TCF.

You can get a current copy of the documents that make up your Account Contract at any TCF branch or by calling us at the appropriate telephone number shown in the section called "Contacting TCF."

**Changes to Your Account Contract**

We may change your Account Contract from time to time by: (1) adding new terms, conditions, services, charges, or fees; and (2) modifying or deleting existing terms, conditions, services, charges or fees. We may make such changes in our sole discretion. All changes to your Account Contract will take effect on the Maturity Date, unless the notice states otherwise.

However, if you have given us notice of a Claim under the section called "Arbitration of Disputes," no change to the "Arbitration of Disputes" section after we received your notice will apply to the Claim. Likewise, if we have given you notice of a claim under the section called "Arbitration of Disputes," no change to the "Arbitration of Disputes" section after you have received our notice will apply to the claim.

TCF will notify you of any changes to your Account Contract. We will comply with any law or regulation that requires notice within a minimum number of days before the effective date of the change. Except where a law, regulation, or another term of your Account Contract requires notice by some other means, we will notify you of changes by:

- Sending the notice to you at the most recent mailing address for your Account in our records (if there is more than one owner for your Account, we may address the notice and send the notice to any one of the Account owners);
- Posting the notice or making the revised agreement with the change available in our branch offices, or posting the notice or revised agreement with the change on the Internet at [tcfbank.com](http://tcfbank.com);
- Sending the notice to you electronically at the most recent email address for your Account in our records (if there is more than one owner for your Account, we may address the notice and send the notice to any one of the Account owners); or
- Telling you about the change when you ask for an Account-related service.

By continuing your Account or using any Account-related service after the effective date of any change, you confirm your agreement to the change. TCF will not change the interest rate on your Account, the minimum balance requirement for your Account, or the early withdrawal penalty for your Account, before the Maturity Date, except as stated otherwise in your Account Contract.

### **Who May Use Your Account**

You agree that you will not permit another person to make withdrawals from your Account, except as stated in the section called "Authorized Signers and Powers of Attorney."

### **Deposits**

#### *Notice of Deposits*

TCF is not Liable to you for any deposit or notice you send to us until we receive it. TCF does not have to notify you of any oral or written order to deposit funds to your Account. We will, however, confirm the deposit of funds to your Account if you call the designated telephone number shown in the section called "Contacting TCF."

#### *Deposits Before Maturity Date*

Unless your Account Contract states otherwise, TCF does not accept additional deposits to your Account except on the Maturity Date or during the seven calendar days after the Maturity Date (called the "grace period"). If TCF accepts a deposit to your Account during the grace period, the deposit may change the Term, interest rate, and Maturity Date on your Account.

### *TCF's Right to Accept or Refuse Deposits*

We may, without asking any questions, accept a deposit to your Account from anyone, made in any manner, and at any time. We may also refuse to accept all or any part of any deposit for any reason. We are not responsible for a deposit until a TCF employee has received, verified, and accepted it.

### *Lost or Misrouted Deposits*

If a check or other Noncash Item you deposit is lost or misrouted, you agree to cooperate with us in recreating it. We may deduct from your Account the amount of any check or other Noncash Item you deposited that we cannot collect because it is lost or misrouted through no fault of ours, and we may reverse any interest we paid in connection with the deposit.

### *Responsibility for Deposited Items*

We are not responsible to tell you if a check or other Noncash Item you deposit is "good" or has "cleared." You continue to be legally responsible to us for all Noncash Items you deposit before and after we make the deposits available to you.

### *Warranties on Deposited Items*

In addition to any other warranties (guarantees) you make by law or agreement, you warrant to us as follows for each check and other Noncash Item we cash for you or accept for collection, payment, or deposit to your Account that:

- All signatures on the Item are authentic and authorized;
- You have the right to enforce the Item;
- The Item has not been changed;
- The Item is valid; and
- There is no other claim or problem with the Item.

As to each such check or other Noncash Item, you also give us the same warranties and indemnities that: (1) we are legally required to give under applicable law or regulation to others for the Item; and (2) we give under applicable network or clearinghouse rules for the Item.

You are legally responsible to us for all checks and other Noncash Items we cash for you or accept for deposit or collection if you breach any of your warranties in this section.

### **Endorsements on Deposited Items**

Any time you want to cash or deposit a check or other Noncash Item, you must first properly endorse (sign the back of) the Item in ink. You can contact us (see the section called "Contacting TCF") with questions about endorsement requirements. Stamped or typed endorsements are acceptable for deposit purposes only. However, we do not have to accept a stamped or typed endorsement. For checks or other Noncash Items made out to more than one person (payee):

- All payees must endorse the Item if "and" is used between

the payee names.

- Only one payee needs to endorse the Item if “or” is used between the payee names.

We may supply your endorsement to any check or other Noncash Item we cash or accept for deposit or collection, but we are not required to in order to collect the item.

We may refuse to accept any check or other Noncash Item unless we can verify to our satisfaction that the Item has all of the necessary endorsements. For example, we may require all endorsers to be present and provide acceptable proof of their identity before accepting an Item.

You are legally responsible to us for all checks and other Noncash Items we cash or accept for deposit or collection that are not properly endorsed. We are not legally responsible to you for accepting an Item that does not meet the requirements of this section called “Endorsements on Deposited Items.”

### **Returned Deposited Checks, Cashed Checks, and Other Noncash Items**

If you deposit a check or other Noncash Item, or receive cash or other value for the Item, and the Item is returned unpaid to us, or we receive notice of a claim or problem related to the Item (for example, alterations or missing or unauthorized signatures), or we are unable to collect the Item for some other reason, we may:

- Deduct the amount of the Item from your Account, even if doing so causes your Account balance to go below zero;
- Put a hold on any of your Accounts or certificate of deposit accounts you have with us for the amount of the Item;
- Deduct any related interest from your Account;
- Resubmit the Item for payment by any means (including electronically), or attempt to collect the Item by other means; and
- Pay any claim related to the Item.

We may take these actions without notifying you in advance. These deductions and holds will reduce your Available Balance. If we take any of these actions, we are not legally responsible to you if other Items exceed your Available Balance as a result. You agree to immediately pay us any amount by which your Account is overdrawn because of these actions.

### **Effect of a Certificate**

When TCF gives you a Certificate of Deposit, we certify that we owe you the opening amount stated on the Certificate, plus any interest accrued (earned) and added to your Account, less any early withdrawal penalty that may apply, and less any withdrawals you make. If you do not leave the opening amount on deposit with TCF until the Maturity Date, TCF will charge you an early withdrawal penalty. See the section called “Early Withdrawal Penalties.”

### **No Assignments or Pledges**

In this section, “transfer” means to sell, assign, or pledge your Account, give a lien or security interest in your Account, or transfer your Account or a portion of your Account by other means to another person.

Your Account or an interest in your Account can only be transferred to another person by showing the transfer on TCF’s records. You agree that you will not transfer your Account or an interest in your Account to anyone without TCF’s written permission. If you do, we do not have to honor the transfer and it will be void. We do not have to give permission for any transfer.

We may prevent you from withdrawing or transferring funds from your Account if you have transferred your Account or an interest in your Account to another person.

### **Interest**

We pay interest, or add interest to your Account Balance, at the times shown on your Certificate in the interest payment schedule.

For Accounts with Terms of less than 12 months, we will pay interest, or add interest to your Account Balance, on the Maturity Date (unless you withdraw or receive the interest before then). For Accounts with Terms of 12 months or more, we will pay or add interest to your Account Balance, quarterly (unless you withdraw or otherwise receive the interest before then).

We use the daily balance method to calculate interest on your Account. The daily balance method applies a daily periodic rate to your Account Balance each day. Interest begins to accrue (earn) on the Business Day you make your deposit (except for Jumbo Certificate Accounts, discussed below), including deposits of checks and other Noncash Items. For the purpose of this paragraph only, “Business Day” also includes Martin Luther King, Jr. Day, Presidents’ Day, Columbus Day, and Veterans Day.

Unless your Account Contract states otherwise, you may withdraw, without paying an early withdrawal penalty, any interest accrued (earned) and added to your Account Balance during the Term in which it is earned. You may not withdraw interest from a previous Term that is part of your Account Balance without paying an early withdrawal penalty.

For non-Retirement accounts, at your request, we will mail you: (1) quarterly interest checks if your Account Balance is at least \$5,000; and (2) monthly interest checks if your Account Balance is at least \$10,000. If your interest check is returned to us for any reason, such as an incorrect address, we will add the interest to your Account. If you do not cash an interest check within the time period specified under state law concerning unclaimed property, the check will be considered “dormant.” See the section called “Dormant/Unclaimed Accounts.”

At your request, regardless of your Account Balance, we will add interest from your Account to another TCF savings or checking Account on a quarterly or monthly basis.

You may request a change in the interest payment method you have chosen for your Account, as long as you give us written notice at least 20 calendar days before the next interest payment date. Otherwise, changes to the interest payment method you request will take effect for the next interest payment period.

#### *For Jumbo Certificate Accounts Only*

This section applies to Jumbo Certificate Accounts. If you open your Account with a check or other Noncash Item, interest begins to accrue (earn) up to two Business Days after the Day of Deposit. Interest does not compound during the Term. This means that the interest you earn is not added to your Account Balance until the Maturity Date. You may not withdraw the interest before the Maturity Date.

#### *For Reload Certificate Accounts Only (where offered)*

This section applies to Reload Certificate Accounts. Before the first Maturity Date of your Account, you have a one-time option to change the interest rate. The new interest rate will be the regular rate TCF offers for Certificate of Deposit Accounts on the date you exercise the option (called the "Option Date"). The "regular rate" is the non-special, non-promotional rate TCF offers for Certificates of Deposit with the same amount and Term as your Account on the Option Date in the location where you opened your Account. There is no penalty for this change. On the Option Date, the Term of your Account will start over and be equal to the number of months in the original Term. The new interest rate begins on the Option Date and is not retroactive. This option will end on the first Maturity Date.

#### *For Step-up Certificate Accounts Only (where offered)*

This section applies to Step-up Certificate Accounts. Before the first Maturity Date of your Account, you have a one-time option to change the interest rate. The new rate will be the regular rate we offer for Certificate of Deposit Accounts on the date you exercise the option (called the "Option Date"). The "regular rate" is the non-special, non-promotional rate we offer for Certificates of Deposit with the same amount and Term as your Account on the Option Date in the location where you opened your Account. There is no early withdrawal penalty for this change. Beginning on the Option Date, your entire Account Balance will earn the new rate for the remaining original Term of your Account (the new interest rate is not retroactive). This option to change the interest rate will end on the first Maturity Date.

### **Premiums, Gifts, and Bonuses**

We may offer premiums, gifts, or bonuses from time to time for opening nonretirement Accounts. The value of the premium or gift, or the amount of the bonus, may vary depending on the

amount you deposit to your Account. Internal Revenue Service regulations require us to report the value of any premium or gift, or the amount of any bonus, to the IRS as interest income for the year in which we give you the premium or gift, or pays the bonus.

We may offer bonuses from time to time for opening retirement Accounts. The amount of the bonus may vary depending on the amount you deposit to your Account. A bonus paid for opening a retirement Account is considered interest (NOT a contribution), and will be reported to the IRS as part of the fair market value on your retirement statement at year-end.

### **Renewals**

You may only make deposits to your Account, or penalty-free withdrawals from your Account, on the Maturity Date or during the seven calendar days after the Maturity Date (called the "grace period"). However, you may make penalty-free withdrawals of interest added to your Account Balance as stated in the section called "Interest."

Except as stated below, if you do not withdraw your funds, or change the Term or amount of your Account during the grace period, TCF will automatically renew your Account on the Maturity Date for another Term equal to the previous Term of your Account (called the "renewal Term"). On the Maturity Date, we may change the: (1) interest rate; (2) minimum balance requirement; and (3) other terms, conditions, services, charges and fees for your Account. These changes will apply during the renewal Term and all future renewal Terms. TCF reserves the right not to renew your Account on the Maturity Date.

The interest rate on your Account during the renewal Term will be at the automatically renewing rate we are offering on the Maturity Date for other Certificate of Deposit accounts in the same amount and for the same term as your Account in the location where you opened your Account. The renewal rate will apply beginning on the Maturity Date.

If your Account is not renewed, we will pay interest during the grace period (until you withdraw your funds) from the Maturity Date automatically renewing rate we are offering on the Maturity Date for other Certificate of Deposit accounts in the same amount and for the same term as your Account in the location where you opened your Account.

We reserve the right to close your Account and open a regular savings account for you if: (1) your Account Balance after the Maturity Date is less than the minimum balance requirement; or (2) your Account is not renewed and you do not withdraw your funds during the grace period. (A regular savings account is not a certificate of deposit account.) This regular savings account will be subject to the *Terms and Conditions for Checking and Savings Accounts, Deposit Account Services and Prices*, and the *Deposit Rate Sheets* in effect where you originally opened your CD.



You can get information on the renewal rates and the annual percentage yields we offer by contacting TCF. The annual percentage yield assumes that interest will remain on deposit until the Maturity Date. Any early withdrawal will reduce earnings.

#### *For Jumbo Certificate Accounts Only*

This section applies to Jumbo Certificate Accounts. Jumbo Certificate Accounts do not automatically renew on the Maturity Date. Therefore, on the Maturity Date, TCF will change your Account to a regular savings account. Beginning on the Maturity Date, we will pay interest on your funds at the rate we are offering for other regular savings accounts in the same amount as your Account in effect at the location where you opened your Account.

### **Early Withdrawal Penalties**

TCF will charge you, and you agree to pay, a penalty (called an "early withdrawal penalty") if you withdraw all or part of your Account Balance before the Maturity Date. We deduct the penalty from either the amount you withdraw or the amount remaining in your Account. However, we do not charge a penalty for any withdrawal: (1) after any Account holder dies or is declared incompetent by a court of law; or (2) if your Account is a retirement account, such as an individual retirement account or SEP Plan account, and you have reached the age of 59½ or you are disabled. You may have to pay additional federal, state, or local taxes if you make any withdrawals from a retirement account before age 59½.

If we make a change in the Term or Annual Percentage Yield on your Account at your request, we will charge you an early withdrawal penalty as if you had withdrawn the entire Account Balance. However, we will not charge the penalty if your request and the change are under the one-time option for a Reload Certificate or Step-up Certificate during the original Term, provided the request occurs more than 6 days after account opening or partial withdrawal.

If you make a partial withdrawal from your Account and your Account Balance after the withdrawal is less than the minimum balance we require to earn the disclosed Annual Percentage Yield for the current Term, we will charge you an early withdrawal penalty as if you had withdrawn the entire Account Balance.

We also reserve the right to close your Account and open a regular savings account for you. (A regular savings account is not a certificate of deposit account.) This regular savings account will be subject to TCF's *Terms and Conditions for Checking and Savings Accounts, Deposit Account Services and Prices Schedule*, and the *Deposit Rate Sheet* in effect where you originally opened your Certificate.

### *Penalties for Automatically Renewing Accounts (Excludes Jumbo Certificate Accounts)*

The early withdrawal penalty for all automatically renewing Accounts (excludes Jumbo Certificate Accounts) is the **greater** of:

- \$25; OR
- The amount calculated as: (1) an annual rate of 1% (0.0833333% monthly) multiplied by (2) the amount withdrawn multiplied by (3) the Term of your Certificate (in months), at the time of withdrawal, not to exceed 36 months.

For example:

**Example 1:** The term of your Certificate is 24 months. You withdraw \$5,000 before the Maturity Date. The calculation is:  $\$5,000 \times 0.0833333\% \times 24 \text{ months} = \$100$ . This is more than \$25, so the penalty would be \$100.

**Example 2:** The term of your Certificate is 60 months. You withdraw \$5,000 before the Maturity Date. The calculation would be  $\$5,000 \times 0.0833333\% \times 36 \text{ months} = \$150$ . This is more than \$25, so the penalty would be \$150.

**Example 3:** The term of your Certificate is 3 months. You withdraw \$5,000 before the Maturity Date. The calculation is:  $\$5,000 \times 0.0833333\% \times 3 \text{ months} = \$12.50$ . This is not more than \$25, so the penalty would be \$25.

If your withdrawal takes place fewer than 7 days after account opening, renewal, or a previous withdrawal, the early withdrawal penalty will be the greater of what we described above or 7 days' simple interest on the amount withdrawn at the rate paid on the Certificate.

We will charge you the full penalty even if you have not yet earned that much interest, and regardless of the length of time you have had your Account.

We will not charge you an early withdrawal penalty on any interest you withdraw during the Term that has been earned and added to your Account Balance.

The early withdrawal penalty will apply to any interest earned during a previous Term and that is part of your Account Balance at the time of withdrawal.

### *Penalties for Jumbo Certificate Accounts Only*

The early withdrawal penalty for Jumbo Certificate Accounts will be the greater of \$25 or:

- If the Term of your Certificate at the time of withdrawal is less than 90 days, all interest that would have been earned during the current Term on the amount withdrawn; or

- If the Term of your Certificate at the time of withdrawal is 90 days or more, 90 days of interest on the amount withdrawn.

If your withdrawal takes place fewer than 7 days after account opening, renewal, or a previous withdrawal, the early withdrawal penalty will be the greater of what we described above or 7 days' simple interest on the amount withdrawn at the rate paid on the Certificate.

TCF will charge you the full penalty even if you have not yet earned that much interest, and regardless of the length of time you have had your Account.

We will not charge you an early withdrawal penalty on any interest you withdraw during the Term that has been earned and added to your Account Balance.

The early withdrawal penalty will apply to any interest earned during a previous Term and that is part of your Account Balance at the time of withdrawal.

### **Withdrawal Requests**

We may require you to show or use your Certificate of Deposit when you ask for a withdrawal in person. We may also require additional identification including, such as your PIN or driver's license (if you have one). We may make exceptions to these requirements, or we may rely on other documents with your signature. We do not have to ask questions of the person giving us a withdrawal request with your signature, or investigate any withdrawal request that has your signature.

### **Right to Require Notice of Withdrawal**

We may require you to notify us in writing at least seven days before you withdraw or transfer funds from your Account. We are required to reserve this right under federal regulations. If we require this notice, the seven day period starts on the day we receive your written notice.

### **Ownership and Bank Records**

We may rely on our records to determine the owners, and form of ownership, for your Account. If our records show that a person is an owner or a co-owner of your Account, and that person fails to sign our required account forms, we are not prevented from treating the person as an owner or co-owner of the Account.

### **Authorized Signers and Powers of Attorney**

Each of you may designate other persons to act on behalf of you, your estate, and all other Account owners concerning your Account. We refer to these other persons as "authorized persons." Unless we agree otherwise in writing, authorized persons will have the right to: (1) make deposits to your Account, or withdrawals from your Account, by whatever means we allow; (2) get and release information concerning your Account; (3)

sign any check or other item or document concerning your Account; (4) change the ownership on your Account; and (5) close your Account.

Authorized persons include any person:

- Named or described in a resolution for your business, certificate of authority you sign, your Account Agreement, or your Account Contract, as an authorized signer or other person authorized to act concerning your Account;
- To whom you give blank checks, your Account number, your Card, your PIN, or your Password for purposes of transacting business on your Account;
- To whom you give a "power of attorney," which we allow only for personal accounts;
- With actual, implied, or apparent authority to act on your behalf concerning your Account; or
- Appointed by a court to act on your behalf or your estate's behalf concerning your Account.

You are bound by all actions of an authorized person concerning your Account, except where the law provides otherwise. Before accepting instructions or transactions from an authorized person, we may require you, and all other Account owners, to sign forms and give us other legal documents acceptable to us that establish: (1) the powers of the authorized person to act concerning your Account; and (2) the limits on those powers, if any.

You agree that we are not responsible for monitoring the actions of any authorized person. You therefore agree that we are not legally responsible to you if we accept an instruction or transaction from an authorized person that: (1) is not done solely for your benefit or your estate's benefit; (2) appears to benefit the authorized person; (3) exceeds the authorized person's authority; or (4) happens after the authorized person no longer has authority to act concerning your Account. This includes instructions and transactions from an authorized person after your death or after you become legally incompetent.

You agree to notify us promptly in writing (see the section called "Contacting TCF") when an authorized person no longer has your permission to act in connection with your Account. The notice must be in a form reasonably acceptable to us. A person is no longer an "authorized person" after we receive your notice and have a reasonable time to act on it.

### **Tax Identification Number (TIN) Certification**

In most instances, U.S. Treasury Department regulations require TCF to obtain a tax identification number (TIN) for each Account. To avoid backup withholding tax, you must provide us with an Internal Revenue Service (IRS) Form W-9 (or substitute Form W-9) or Form W-8BEN. U.S. citizens or other U.S. persons, including resident alien individuals, must appear as the primary owner of your Account and must provide a signed Form W-9 (or substitute Form W-9). Non-resident aliens must provide a signed Form W-8BEN. TCF may also require other forms.

Until we have received the completed and signed Form(s) W-9 (or substitute Form W-9) or W-8BEN, we may either: (1) not pay

interest on your Account; or (2) pay interest and comply with the IRS backup withholding requirements.

If, at any time, we receive information indicating that someone other than you is using the same TIN that you certified as your TIN on Form W-9 (or substitute Form W-9), and we are not able to determine that you are the rightful owner of the TIN, we may, without notifying either: (1) stop paying interest on your Account; or (2) continue paying interest but comply with the IRS backup withholding requirements. We may also take any other action that we consider reasonable.

If you are the last surviving owner of your Account, upon your death we must be provided with your estate's or your beneficiary's TIN, as applicable. If this is not provided, we may either: (1) stop paying interest on your Account after the date of your death; or (2) withhold a portion of the interest earned on your Account since the date of your death.

### **Fees and Charges**

We may charge you, and you agree to pay, fees for services relating to your Account according to our then-current *Deposit Account Services and Prices Schedule*. We may, from time to time, make changes, additions, or deletions to our *Deposit Account Services and Prices Schedule*. You may obtain a current *Deposit Account Services and Prices Schedule* at any TCF branch.

You may pay any fees and charges you owe us from interest accrued (earned) and added to your Account. This will reduce the amount of interest you earn on your Account. We may deduct any fees and charges related to your Account, and any other amounts you owe us under your Account Contract, from your Account (this will reduce the amount of interest you earn on your Account) or any other checking or savings account you have with us. We may do this without notifying you in advance. In the event any of the fees or charges that relate to your Account are determined to fall under Section 85 of the National Bank Act (12 U.S.C. § 85), we refer to South Dakota substantive law to determine the highest permissible fee or charge.

### **Dormant/Unclaimed Accounts**

State and federal laws govern when accounts are considered "abandoned." While the definition varies from state to state, your Account may be considered abandoned if you do not make any deposits or withdrawals, or take certain actions, within the period of time specified in the law.

Once your Account or any check we send you is considered abandoned, the law requires us to turn your funds over to the state (called "escheat"). We may close your Account after we escheat your funds, and, if your Account pays interest, no further interest will accrue (be earned) on your Account.

We are not legally responsible to you for your funds or the amount of any check after we escheat them, and you must apply to the appropriate state agency to reclaim your funds.

### **Stop Payment**

We do not have to honor your request to stop payment on a certified check, official bank check, cashier's check, or teller's check, except as required by applicable law if they are lost or stolen. If we agree to such a request (and where permitted by applicable law), we may require you to give us security, such as a bond or other collateral, to protect us from loss for honoring your request. Contact us immediately if one of these kinds of check is lost, destroyed or stolen.

### **Legal Process and Bankruptcy**

If we receive any legal papers relating to you or your Account, such as a garnishment, levy, or order from a court or government agency, we may: (1) hold the funds in your Account (or remove them from your Account and hold them in a separate account that does not pay interest) until we determine who has the legal right to them; and (2) pay funds from your Account as the legal papers require. If your Account is a joint Account and the legal papers relate to any one of the joint Account owners, we may put a hold on the funds and pay them as the legal papers require without first determining how much was contributed to the Account by each joint Account owner. We may do so regardless of any presumption of ownership under the law.

If you file for bankruptcy or bankruptcy is filed against you, we may put a hold on the funds in your Account and turn them over to the bankruptcy trustee.

If we are not sure how much of an Account is affected by any legal papers or bankruptcy, or if we are aware of any dispute regarding your Account or ownership of funds in your Account, we may: (1) put a hold on the funds in your Account and require a court order telling us where to pay the funds; (2) pay the funds to the court; or (3) require you to give us a liability bond (which is similar to an insurance policy that protects TCF).

### **Setoff**

#### *Setoff and Other Deductions*

We may deduct funds from your Account, and any other checking and savings accounts you have with us or any of our Affiliates (whether or not you have to pay an early withdrawal penalty on your Account), to pay any debt or other amounts you owe us or any of our Affiliates unless the law prohibits us from doing so.

In some instances, this is called our right of "setoff." In other instances, this is separate from, and in addition to, our right of setoff. Our rights under this section are available to us under the law as well as your Account Contract. Certain deductions are not considered "setoffs" but are nonetheless authorized under your Account Contract and are referred to as "recoupment."

Examples of these deductions include, but are not limited to, fees we deduct from your Account, overdrafts we deduct from deposits you make to your Account, and deductions we make for checks you deposit to your Account that are returned unpaid.

Our rights under this section apply to any debts or other amounts you owe now or may owe in the future, whether or not the debt or other amount is due at the time of the deduction. We may make these deductions even if the deduction results in an interest penalty, early withdrawal charge, dishonor of checks, or other fees to you.

If your Account or other checking or savings account is with a partnership or is a joint Account, each partner or joint owner agrees that we may deduct all or any part of the funds in your Account or any checking or savings account to pay a debt or other amount due us or any of our Affiliates by any of the partners or joint owners. We do not have to first determine how much of the deposit was contributed by that partner or joint owner, unless the law requires us to do so.

The law in some instances may impose conditions or limits on our right to deduct funds from your Account or other checking or savings accounts under this section. To the extent that you may legally do so by contract, you waive those conditions and limits.

### *Limitations*

Our rights under this section called "Setoff" do not apply:

- To an Account or other account that is an IRA or other tax-deferred or tax-free retirement account;
- To a debt created by a consumer credit transaction under a credit card plan, but this does not affect our rights under any separate security interest you agree to by contract;
- To a consumer credit transaction with us or our Affiliates if we fail to provide any required disclosure of our rights under this section; or
- When our records show to our satisfaction that you own the Account or other account in a representative capacity (for example, only as an attorney-in-fact, trustee, conservator, or personal representative).

We may exercise our rights under this section without notifying you in advance, unless the law requires otherwise. Our rights under this section are in addition to and apart from any other rights we may have under your Account Contract or any separate agreement you may have with us or any of our Affiliates. We and our Affiliate may exercise these rights in any order in our sole discretion or that of our Affiliates.

Our rights under this section survive (continue in full force and effect after) the closing of your Account or termination of your Account Contract.

### **Contacting You on Your Phone or Mobile Device**

Except as stated below, you agree that we may contact you in connection with your Account and for other purposes on your present or future: (1) residential or business landline telephone; (2) personal or business wireless telephone; or (3) other wireless device. We may contact you by placing voice telephone calls or by sending email or automated (SMS) text messages to your wireless telephone or other wireless device. You agree that we

may use an automatic telephone dialing system or an artificial or prerecorded voice to make these telephone calls or send these messages to the telephone number(s) you have provided to us.

Your agreement in this section also extends to third parties that may initiate calls or send messages on our behalf, including our vendors, third-party service providers, companies with which we have joint marketing agreements, and any party to whom we sell your Account.

However, without your prior express written permission, we will not: (1) initiate telephone calls or send text messages to your wireless telephone using an automatic telephone dialing system or an artificial or prerecorded voice that include or introduce an advertisement or constitute telemarketing; or (2) initiate telephone calls to your residential landline telephone using an artificial or prerecorded voice that include or introduce an advertisement or constitute telemarketing.

You may, at any time, revoke your permission to allow us to: (1) initiate telephone calls or send text messages using an automatic telephone dialing system or an artificial or prerecorded voice to your wireless telephone; (2) initiate telephone calls using an artificial or prerecorded voice to your residential landline telephone that include or introduce an advertisement or constitute telemarketing; (3) initiate telemarketing calls to you at any phone number; or (4) send email that is primarily for advertising or promotional purposes to your wireless phone or wireless device. To revoke your permission, or to be placed on our do-not-call list for telemarketing purposes, please contact us (see the section called "Contacting TCF").

You will be responsible for any charges you incur for these calls and messages and understand that they may deplete any free or prepaid minutes.

### **Monitoring and Recording**

You agree that we may monitor, record, or process any communications between you or anyone acting on your behalf and us. We may do so for quality control, fraud prevention, and other business purposes and without further notice to you.

### **No Illegal Activity**

You agree that you will not use your Account for any illegal activity. This includes, but is not limited to, unlawful Internet gambling. If we suspect that you or anyone else is using your Account for illegal activities, we may close your Account or put a hold on your Account and any other checking or savings accounts you have with us without notifying you in advance, unless the law requires otherwise.

### **Foreign Financial Institutions**

We have adopted a policy that we will not establish private banking accounts for non-United States persons or correspondent accounts for foreign financial institutions. A private banking account is an account or a series of accounts that: (1) have total assets of more than \$1,000,000; (2) are set up for the benefit of one or more non-U.S. person(s); and (3) are administered by an employee or agent of the bank holding

the funds. You state to us that you are not a foreign financial institution and that you are not acting on behalf of a foreign financial institution.

If we believe that you are a non-U.S. person with a private banking account or meet the definition of a "foreign financial institution," we may close your Account without notifying you in advance, unless the law requires otherwise. We may also take any other actions we consider appropriate.

### **Closing Your Account**

We have the right to close your Account at any time without notifying you in advance, unless the law requires otherwise. We may do this for any reason. You must notify us of your intent to close your Account by giving us written notice (see the section called "Contacting TCF") or by submitting a request at any TCF branch or by any other means we authorize from time to time.

The applicable terms of your Account Contract continue in effect after we or you close your Account. If you close your Account before the Maturity Date, we will charge you, and you agree to pay, an early withdrawal penalty as provided in the section called "Early Withdrawal Penalties."

After your Account is closed: (1) we will not pay further interest on the Account; (2) we may hold any remaining funds that were in your Account until you claim the funds and we determine you are entitled to receive them, except as provided by the state law governing unclaimed property; (3) we may, but are not required to, return any deposits we receive by ACH to the sender; and (4) you agree that you will not attempt to make any further deposits. Even if your Account is closed, you are still legally required to us for any overdrafts and fees you owe us.

### **Mailings**

#### *Address and Address Changes*

We may send notices and other communications to you at the most recent mailing address for your Account in our records. If there is more than one owner for your Account (for example, a joint Account), we may address the notice or communication and send it to any one of the Account owners. You are responsible for notifying us of your correct mailing address and any changes in your mailing address.

If you or someone on your behalf, or someone we reasonably believe is you or someone acting on your behalf, instructs us to change your mailing address, we may act on the instruction without investigating it. We are not legally responsible to you if you did not authorize the instruction.

Unless you tell us otherwise, when you notify us of a change of address we may either: (1) change the address only for the Accounts or relationships that you specify; or (2) we may change the address for some or all of your other Accounts or relationships with us and our Affiliates.

We may change your mailing address in our records if we receive an address change notification from the U.S. Postal

Service, or if we receive notification from a business that provides corrected address information.

#### *Returned Mail; Unclaimed Statements Held for Pickup*

We will take the following actions, unless the law provides otherwise:

- If one or more notices or other communications we send you are returned as undeliverable, we may discontinue sending notices or other communications to you until you provide us with a new and valid mailing address.
- We may destroy notices and other communications we send to you but are returned to us as undeliverable.
- We may charge you for any returned mail fees, as well as for any special fees or expenses charged by the U.S. Postal Service or other mail services to provide updated or corrected addresses or to forward returned mail.
- We may consider notices and other communications that are held for pickup as delivered to you at the time they are available for pickup. If we hold your notices or other communications for pickup and you do not claim them within 30 days, we may send them to the mailing address we have for your Account in our records or destroy them.

### **Notice and Cure**

In this section, the term "Claim" has the meaning defined in the section called "Arbitration of Disputes" below. The term "Claim Notice" means written notice of a Claim.

Before you may initiate a lawsuit or arbitration against us regarding a Claim, you must give us: (1) a Claim Notice; and (2) a reasonable opportunity to resolve the Claim. Likewise, before we may initiate a lawsuit or arbitration against you regarding a Claim, we must give you a Claim Notice and a reasonable opportunity to resolve the Claim. In this section, "reasonable opportunity" means at least 15 days. Neither you nor we may give a Claim Notice on behalf of others.

We will send any Claim Notice to you to the most recent mailing address for your Account in our records. If there is more than one owner for your Account, we may address the notice and send the notice to any one of the Account owners. You must send any Claim Notice to us by mail addressed to:

TCF Bank  
Attn Legal Department  
Mail Code EX0-01-A  
1405 Xenium Lane North  
Plymouth, MN 55441

If we give you notice of a different address to use for notice purposes, you must send any Claim Notice to us at that different address. Any Claim Notice you send to us must include your account number and telephone number where you can be reached.

A Claim Notice must explain the nature of the Claim and the relief demanded. If you give us a Claim Notice, you must reasonably cooperate in providing any information about the

Claim that we reasonably request. Likewise, if we give you a Claim Notice, we will reasonably cooperate in providing any information about the Claim that you reasonably request.

### **Arbitration of Disputes**

The number one priority for TCF is maintaining a good relationship with our customers. If you encounter a problem with any TCF product or service, we encourage you to contact us immediately. In most cases, a call to TCF or discussing the problem with one of our trained branch employees will quickly resolve the problem.

If we are not able to resolve the problem, any Claim you may have relating to your Account will be resolved using the procedure described in the section called "Notice and Cure" and this section called "Arbitration of Disputes."

**If you do not want this Arbitration Agreement to apply, you have the right to reject it under the section called "Right to Reject," below.**

#### *Definitions*

The following definitions apply for purposes of this section called "Arbitration of Disputes."

**"Arbitration Agreement"** means this section called "Arbitration of Disputes."

**"Arbitrator"** means a neutral person or persons from the arbitration organization selected under this Arbitration Agreement.

**"Claim"** should be construed broadly. Except as limited in this Arbitration Agreement (see below in this section and the section called "Arbitration Election Process"), "Claim" means any claim, dispute, or controversy between you and TCF that arises from or relates to:

- Your Account Contract with TCF, and any other documents you signed or that we provided to you in connection with your Account;
- The application for your Account (if any);
- The events leading up to your becoming an Account holder, including (but not limited to) any disclosures, advertisements, promotions, or oral or written statements made by TCF;
- Previous dealings between you and TCF in connection with your Account Contract, any previous version of your Account Contract, or any previous agreement similar to your Account Contract involving a checking or savings account with TCF;
- Future dealings between you and TCF in connection with your Account Contract, any future version of your Account Contract, or any future agreement similar to your Account Contract involving a checking or savings account with TCF;
- Any product or service provided by us or third parties in connection with your Account, including (but not limited to) data processing companies, credit bureaus, service bureaus, and collection agencies;
- Your Account and all items and transactions related to your Account; and

- Any transactions conducted by a TCF Account holder using TCF services, including (but not limited to) ATM transactions using a non-TCF card at an ATM owned or operated by TCF.

Despite the foregoing, the term "Claim" does not include any claim, dispute, or controversy over the validity or enforceability of this Arbitration Agreement or any part of it, including (but not limited to): (1) the Class Action and Consolidation Waiver; (2) the last sentence in the section called "Severability;" or (3) this paragraph. All such claims, disputes, and controversies are for a court and not an arbitrator to decide.

However, any claim, dispute, or controversy over the validity or enforceability of your Account Contract as a whole is for the arbitrator, and not a court, to decide.

Claims may be based on:

- Contract law;
- Tort law (a "tort" is an injury or wrong, not based on contract law, for which the law provides a legal remedy, such as personal injury, negligence, misrepresentation, or fraud);
- Equity;
- Previous court decisions on a subject, known as "case law" or "common law";
- Federal or state constitution, statute, regulation, rule, or municipal ordinance; or
- Any other theory.

**"Class Action and Consolidation Waiver"** is the waiver provided for in the section called "Class Action and Consolidation Waiver."

**"We," "us," "our," and "TCF"** mean:

- TCF National Bank and its predecessors and successors;
- TCF Financial Corporation, and its predecessors and successors;
- All companies owned or controlled directly or indirectly by TCF Financial Corporation;
- Any bank, financial institution or other company to which TCF National Bank transfers its rights under your Account Contract;
- Any third party that provides goods or services in connection with your Account if the third party is included in a Claim by you against us. A third party could include, for example, credit bureaus, service bureaus, insurance companies, collection agencies, or parties providing other services in connection with your Account; and
- All of the directors, officers, managers, and employees of any of these companies.

**"You" and "your"** mean each Account owner and all Account owners.

#### *Binding Arbitration*

Arbitration is a method of resolving disputes in front of one or more Arbitrators instead of having a trial in court in front of a judge or jury. This Arbitration Agreement governs when and how any disputes between you and TCF will be arbitrated – instead

of decided in court – even if one party (you or TCF) initially chooses to bring the case in court.

Binding arbitration means that you and TCF must follow the arbitration process and rules and must do whatever the Arbitrator decides. That process will result in an award by the Arbitrator resolving the Claim.

However, a Claim cannot be arbitrated after the statute of limitations for the Claim has expired. The “statute of limitations” is the time period allowed by law for initiating a lawsuit or other court action.”

This Arbitration Agreement also covers requests for orders requiring you or TCF to take or not take certain actions. These are sometimes referred to as “injunctive relief” or “equitable relief.” The Arbitration Agreement also covers requests for declaratory relief.

The Arbitrator may award injunctive, equitable and declaratory relief if permitted by applicable substantive law. However, the Arbitrator may do so: (1) only in favor of the individual party seeking relief; and (2) only to the extent necessary to provide relief warranted by that party’s individual Claim.

#### *Right to Appeal Arbitrator’s Award*

You or TCF may appeal an Arbitrator’s award to a panel of three Arbitrators if the Claim results or may result in: (1) an award exceeding \$100,000; or (2) equitable relief costing a party more than \$100,000. The panel will reconsider anew any aspect of the award requested by the appealing party. The decision of the panel must be made by at least a majority of its members.

The Arbitrator’s award will be final and binding on all parties, except for any right of appeal provided by the Federal Arbitration Act. However, if the amount in controversy exceeds \$50,000 you or TCF can, within 14 days after the entry of the Arbitrator’s award, appeal the award to a three-arbitrator panel administered by the Administrator. The panel will consider anew any aspect of the initial award requested by the appealing party. The appeal will be governed by the rules of the arbitration organization. If the arbitration organization has no rules governing appeals, the appeal will be governed by the JAMS Optional Appeal Procedure. The decision of the arbitration panel will be by majority vote. Reference in this Arbitration Agreement to “the Arbitrator” will mean the panel if you or TCF appeals the Arbitrator’s decision. The costs of the appeal will be paid by the parties according to the section below called “Arbitration Costs.” Any final decision of the appeal panel is subject to court review only as provided under the Federal Arbitration Act.

#### *Arbitration Election Process*

You or TCF may choose to settle any Claim by binding arbitration under this Arbitration Agreement unless the law provides otherwise. A party may do so by giving written notice demanding arbitration to the other party. The notice may, but does not have to, consist of a pleading filed in court demanding arbitration.

If you or TCF files a court action concerning a Claim, doing so does not waive your right or our right to arbitrate any other Claim. For example, if we started an action against you in court (and you did not request arbitration), that action and any

defenses you raise would be heard by the court. If you filed a counterclaim against us in that action and the counterclaim was covered by this Arbitration Agreement, we or you could demand arbitration of the counterclaim.

Despite the broad definition of a “Claim” set forth above, you and TCF do not have to arbitrate the following (except as stated below in this section):

- Your use or our use of any self-help or non-judicial remedy. “Self-help” and “non-judicial” remedies are actions you or we can take that do not involve court action. An example of this includes setoff rights in your Account.

You and we also do not have to arbitrate any individual court action by a party that: (1) is limited to preventing the other party from using a self-help or non-judicial remedy; and (2) does not involve a request for damages or monetary relief of any kind;

(However, we will not exercise any right of setoff to any arbitration award made to us unless and until the arbitration award is confirmed by a court having jurisdiction and becomes a final judgment and until any timely appeal of judgment is completed.)

- Any individual action you bring in a small claims court or your state’s equivalent court, unless the action is transferred, removed, or appealed to a different court; or
- Legal proceedings to pay funds in your Account to the court as described in the section called “Legal Process and Bankruptcy” to resolve a dispute over ownership of the funds.

#### *Selection of Arbitration Organization*

The party initiating an arbitration proceeding will have the right to select one of the following arbitration organizations:

American Arbitration Association  
13455 Noel Road, Suite 1750  
Dallas, TX 75240-6636  
1-800-426-8792  
www.adr.org

JAMS  
71 South Wacker Drive, Suite 3090  
Chicago, IL 60606  
1-800-352-5267  
www.jamsadr.com

National Arbitration and Mediation (NAM)  
990 Stewart Avenue, 1st Floor  
Garden City, NY 11530  
(800) 358/2550  
www.namadr.com

If neither of the arbitration organizations listed above is able and willing to conduct the arbitration under the terms of this Arbitration Agreement, then you and we will attempt to agree upon another arbitration organization. If you and we cannot agree, either of us may apply to the court to appoint one under Section 5 of the Federal Arbitration Act.

Any arbitration organization the parties agree to, or that is appointed by the court under this section: (1) may be an

individual arbitrator, a corporation, or other legal entity; (2) must be neutral; (3) must have extensive relevant experience in performing arbitrations; and (4) may not assess fees that are commercially unreasonable.

If a party (you or TCF) files a lawsuit in court asserting a Claim that is covered by this arbitration agreement, and the other party files a motion to compel arbitration with the court that is granted, it will be the responsibility of the party asserting the Claim to start an arbitration proceeding.

### *Arbitration Rules*

Arbitration will be conducted under the rules the arbitration organization you or we select uses when the arbitration is filed. These rules are sometimes called the “code of procedure.”

The arbitration organization must apply the following procedure when selecting an arbitrator in those cases when a single arbitrator will be used. First, the arbitration organization must send to the parties (you and us) an identical list with the names of at least three proposed arbitrators. Within 14 days after receiving the list each party may:

1. Advise the arbitration organization that all of the names are acceptable; or
2. Strike one of the names if the list contains three proposed arbitrators, and then number the remaining names in order of preference; or
3. Strike two of the names if the list contains more than three proposed arbitrators, and then number the remaining names in order of preference.

The arbitration organization must then select the arbitrator from among the names not struck and, when possible, based on the order of preference the parties have indicated. If a party does not return the list within the time specified, all proposed arbitrators on the list will be considered acceptable to that party. The procedure in this section does not waive a party's right to object to the selected arbitrator under the arbitration organization's rules.

You may contact the arbitration organization directly if you:

1. Have any questions about arbitration that the arbitration organization conducts;
2. Want a copy of the arbitration organization's rules and forms; or
3. Want to file a Claim.

You may do so at the address, phone number, or website shown in the section called “Selection of Arbitration Organization.”

If there is a conflict between the arbitration organization's rules and this Arbitration Agreement, this Arbitration Agreement controls. If there is a conflict between this Arbitration Agreement and other terms of your Account Contract, this Arbitration Agreement controls. If there is a conflict between this Arbitration Agreement and the substantive law that applies, the substantive law controls.

An arbitration organization is disqualified if it has a formal or informal rule or policy that is not consistent with and claims to override the terms of the Class Action and Consolidation Waiver.

If it is disqualified, the arbitration organization may not conduct the arbitration unless you and we agree. If you and we do not agree, then a different arbitration organization must be selected.

### *Location of Arbitration*

Any arbitration hearing you attend will take place at a location that is reasonably convenient to where you reside.

### *Arbitration Costs*

At your written request, we will pay all filing, hearing, and other fees the arbitration organization charges you for any Claim you assert in arbitration after you have paid an equivalent amount (if any) for filing the Claim in state or federal court. If you have already paid a fee for filing the Claim in court, you will not have to pay that amount again.

We will also pay all fees the arbitration organization charges: (1) if, and to the extent, applicable law requires; or (2) if, and to the extent, required for us to enforce this Arbitration Agreement. The Arbitrator must apply the same statutes of limitations and privileges a court would apply if the matter were before a court. A “statute of limitations” is the time period the law allows for initiating a lawsuit or other court action.

Each party must pay for its own attorneys, experts, and witnesses used in the arbitration. However, we will pay your reasonable costs for attorneys, experts and witnesses if: (1) the arbitration results in an award in your favor; (2) the arbitration rules require us to pay these costs; (3) the law requires us to pay these costs; or (4) the law requires us to pay these costs in order to enforce this Arbitration Agreement.

We will also pay any fees you incur for applying to the court to appoint an arbitration organization under the section called “Selection of Arbitration Organization” if you are required to file a separate lawsuit to obtain such an appointment.

Under no circumstances will we seek or accept reimbursement from you of amounts we pay to the arbitration organization, the Arbitrator, or to attorneys, experts, or witnesses. Despite anything to the contrary in this Arbitration Agreement, we will, under all circumstances, pay: (1) any fees or expenses the law requires us to pay; and (2) any fees and expenses we must bear for this Arbitration Agreement to be enforced.

### *Law and Findings*

This Arbitration Agreement is made in connection with a transaction involving interstate commerce and will be governed by the Federal Arbitration Act. This Arbitration Agreement will not be governed by federal or state rules of civil procedure or evidence, or any other state laws that pertain specifically to arbitration.

The Arbitrator must apply the substantive law that applies to the Claim, consistent with the Federal Arbitration Act. The Arbitrator must apply the same statutes of limitations and privileges a court would apply if the matter were before a court. A “statute of limitations” is the time period the law allows for initiating a lawsuit or other court action.

The Arbitrator is also authorized and given the power to award all remedies permitted by the substantive law that would apply



if any individual action were brought in court. The authorization and power is limited by any constitutional limits that would apply in court. At your request or our request, the Arbitrator will provide reasoned and written finding of fact and conclusion of law. "Findings of fact" are a determination of what happened. "Conclusions of law" are the legal consequences from the facts.

#### *Post Arbitration Actions*

You or we may apply to a court to enter a judgment based on the decision of the Arbitrator. A right of appeal exists to the extent permitted in the Federal Arbitration Act.

#### *Class Action and Consolidation Waiver*

**If you or we choose to arbitrate a Claim, you and we waive (give up) the right to have any Claim arbitrated or litigated as a class action or a private attorney general action.**

**Arbitration under this Arbitration Agreement is limited to your or our individual Claims only. Regardless of any other provision of this Arbitration Agreement, if you or we elect to arbitrate a Claim, neither you nor we have the right to:**

- **Participate in a class action in a court or in arbitration, either as a class representative or a class member;**
- **Act as a private attorney general in court or in arbitration; or**
- **Join or consolidate Claims with claims of any other person.**
- **Obtain any relief that applies to any person or entity other than you or us individually.**

**The Arbitrator will be authorized and empowered to conduct only an individual (non-class) arbitration.**

**In this section, a "class action" is where a person brings a legal proceeding on behalf of a group of people, called "class members," who have similar claims. The person bringing the action is the "class representative." A "private attorney general action" is where a person brings a legal proceeding to enforce a law that the attorney general of the state has the authority to enforce.**

**The Class Action and Consolidation Waiver does not apply to any lawsuit filed against TCF in court by a state or federal government agency. This means that TCF will not have the right to compel arbitration of any Claim brought by such an agency.**

#### *Changes*

Regardless of any contrary term of your Account Contract, any changes to this section called "Arbitration of Disputes" (including any additions, modifications, or deletions to this section), or the termination of this section, do not apply to a Claim if we have received written notice of the Claim on or before the effective date of the change or termination.

#### *Survival*

This Arbitration Agreement will survive ("survive" means to continue in full force and effect after):

1. Any modification, extension, or forbearance of your Account Contract. A "forbearance" is when we do not strictly enforce the terms of the Account Contract;
2. The closing of your Account or termination of your Account Contract;
3. Any legal proceeding by us to collect a debt you owe; and
4. Your bankruptcy (except where prohibited by bankruptcy law).

#### *Severability*

If any part of this Arbitration Agreement (other than the Class Action and Consolidation Waiver) cannot be enforced, the rest of the Arbitration Agreement will continue to apply. If: (1) the Class Action and Consolidation Waiver is determined to be invalid or unenforceable in a proceeding; (2) you and we are both involved in the proceeding; and (3) the determination is upheld on appeal (if we appeal), then this entire Arbitration Agreement (except for this sentence) will be null and void with respect to that proceeding only.

#### *Right to Reject*

If you do not want this Arbitration Agreement to apply, you can reject it by mailing a written rejection notice to us at:

TCF Bank  
Attn Arbitration Rejection  
Mail Code EX0-01-A  
1405 Xenium Lane North  
Plymouth, MN 55441

The written rejection notice must: (1) describe your Account in enough detail for us to identify this Arbitration Agreement; and (2) tell us that you are rejecting it. We must receive the rejection notice within 30 days after the date of your Account Agreement. All Account owners must sign a rejection notice for it to be effective.

If you reject this Arbitration Agreement, that will not affect any other provision of your Account Contract or the status of your Account. If you do not reject this Arbitration Agreement, it will be effective as of the date you opened your Account. You may not reject it later.

Rejecting this Arbitration Agreement has no effect on any previous or future arbitration agreements you have with us.

If you want proof that we received your rejection notice before the deadline, you should send the notice to the address shown above by: (1) certified mail, return receipt requested; or (2) a courier that provides written proof of delivery. At your written request, we will reimburse you for the mailing or delivery costs.

#### **Service of Process**

If a dispute arises and you file a lawsuit against us, you must make service of process on us at the following address:

TCF Bank  
Attn Legal Department  
Mail Code EX0-01-A  
1405 Xenium Lane North

Plymouth, MN 55441

We do not intend for this section to override in any way the section called "Arbitration of Disputes."

### **TCF's Liability to You**

#### *TCF Not Liable in Certain Instances*

We are responsible for processing your Items and carrying out other transactions concerning your Account using customary banking practices, including but not limited to the following:

- Using automated processing of Items under a certain dollar amount determined by us from time to time. We will not visually inspect individual checks under these dollar amounts. However, we do not have to verify your signature or the endorsements (signatures on the back) for any check or other Item.
- Using automated screening of Items that may result in initial acceptance and processing, and then later rejection, of Items not meeting our specifications. We reserve the right to reject such Items upon later manual inspection.

You agree that if you, we, or both of us make an error on your Account, we may correct the error without notifying you beforehand.

You agree, to the extent the law allows, that we are not legally responsible to you for:

- Any losses resulting from our use of customary banking practices or actions we take that are permitted under your Account Contract;
- Any other losses, provided we have acted in good faith and with ordinary care;
- The actions or inactions of another financial institution or any person not under our control; or
- Any indirect, incidental, special, consequential or punitive damages for any errors or mistakes we make in good faith: (1) no matter what the legal theory; and (2) whether the consequences are foreseeable or not.

#### *Errors and Unauthorized Transactions*

We will investigate any transactions relating to your Account that you claim are in error or unauthorized. Unless applicable law requires otherwise, you agree to do the following within 30 days of our request: (1) give us a written affidavit (statement) under oath describing your claim, on a form we approve; (2) fully cooperate with us in our investigation of the claim; (3) file a police report, if we request; and (4) give us in writing any other information we request on forms we approve.

If we pay you for any loss because of an error or unauthorized transaction on your Account: (1) you assign to TCF any rights you may have against another person who may be legally responsible for the loss (right of subrogation), and you agree to fully cooperate with us in attempting to collect the loss from

that other person; (2) we are not legally responsible to you for anything further related to the unauthorized transaction; and (3) you agree to sign any document we request confirming (1) and (2). We may reverse any payment we make to you if you fail to comply with any of your agreements under this section.

### **Indemnification**

The following definitions apply for the purposes of this section called "Indemnification."

"**Liabilities**" means: (1) claims someone makes against TCF to pay money or take certain actions; (2) awards made against TCF by a court or arbitrator to pay money or take certain actions; and (3) expenses TCF incurs for defending against (1) or (2), including TCF's reasonable attorney fees.

"**Defend**" means to hire a lawyer, or pay the costs to hire a lawyer, to defend TCF in a lawsuit, arbitration, or other legal proceeding.

"**Indemnify**" means to reimburse another for a loss.

"**Hold Harmless**" means to release another from any responsibility for damage or other liability.

"**TCF**" means TCF as well as TCF's officers, directors, employees, agents, Affiliates, attorneys, and its successor and assigns.

You agree to Defend, Indemnify, and Hold Harmless TCF against any and all Liabilities that TCF incurs as a direct or indirect result of:

- Your failure to fulfill any of your promises under your Account Contract or if any of your warranties or statements in your Account Contract are untrue;
- Our refusal to act on the instructions of an "authorized person" without further written assurances, acceptable to us, of that person's authority;
- Any other actions we take, reasonably and in good faith, that you authorize us to take under your Account Contract.

This section (except this sentence) will not apply to matters that are the result only of our own gross negligence, willful misconduct, or bad faith.

This section will survive (continue in full force and effect after): (1) any modification, extension, or forbearance of your Account Contract (a forbearance happens when we do not strictly enforce the terms of the Account Contract); (2) the closing of your Account; and (3) the termination of your Account Contract for any reason.

Despite this section, you will never be required to pay any attorney fees, costs or expenses TCF incurs in connection with an arbitration under the section called "Arbitration of Disputes." In the event of a conflict between the two sections, the "Arbitration of Disputes" section controls.

**No Waiver**

Your Account Contract gives us certain rights and requires us to do certain things. If we do not take advantage of all our rights all the time, we do not give up (waive) any of those rights. No waiver of our rights under your Account Contract is enforceable against us unless it is in writing and signed by us.

**Severability**

Each of the terms and conditions in your Account Contract stands alone. Except where your Account Contract states otherwise, any term or condition that is unenforceable or invalid does not affect the enforceability or validity of the other terms or conditions of your Account Contract.

**Captions and Headings**

Captions, headings, and subheadings used in this Agreement are only for reference purposes and are not intended to limit the meaning or scope of the terms and conditions of your Account Contract.

**Governing Laws**

TCF is a national bank with its main office in South Dakota. Therefore, you and we agree that your Account Contract and all disputes relating in any way to your Account or your Account Contract will be governed by: (1) federal law (including the National Bank Act and regulations adopted by the Comptroller of the Currency); and (2) to the extent state law applies and is not preempted, the substantive and procedural law (but not the conflict of law rules) of South Dakota.

## ADDITIONAL TERMS FOR CERTAIN TYPES OF PERSONAL ACCOUNT OWNERSHIP

**Individual Accounts**

If you open an individual Account (individual ownership), you are the only person who has an ownership interest in the Account.

**Joint Tenancy Accounts**

If you are a natural person (as opposed, for example, to a corporation or partnership) and open an account in "joint tenancy," more than one person has an ownership interest in the Account (each owner is called a "joint tenant"). You agree that all deposits to the Account are owned by all the joint tenants. You also agree that we may accept deposits, withdrawal requests, or other instructions (such as an instruction to change the Account ownership) from any one of the joint tenants without permission from the other joint tenants.

If one of the joint tenants dies, the surviving joint tenants own the Account. This is called the "right of survivorship." If there are two or more surviving joint tenants, the survivors continue to own the Account as "joint tenants with rights of survivorship."

All of you (the joint tenants), and each of you individually, are responsible for all transactions on the Account, no matter who completes the transaction. All of you, and each of you individually, are therefore responsible for any overdrafts in the Account, even if you did not create the overdraft yourself or benefit from the overdraft.

**Tenants-In-Common Accounts**

If you open an Account in "tenants-in-common" ownership, you own a share of the funds in the Account separately from the other owners. Your share is equal to the shares of each other owner. We require all owners' signatures for withdrawals or other instructions related to the Account. A tenants-in-common account is sometimes referred to as a "joint tenancy without rights of survivorship" account.

**Payable on Death Accounts**

If you open an Account in "payable on death" ownership (sometimes called a "Totten trust"), naming yourself as trustee for the benefit of a named beneficiary or beneficiaries, only you, as trustee, can make deposits to the Account or withdrawals from the Account.

If you are the only living trustee and you die, we will pay the Account balance in equal amounts to the beneficiaries named in your Account Agreement who are living at the time of your death.

If there is more than one trustee (where permitted), the trustees hold the Account as "joint tenants with the rights of survivorship" and the terms pertaining to joint tenancy accounts apply to them. When the last trustee dies, we pay the Account balance in equal amounts to the beneficiaries named in your Account Agreement who are living at the time of the last trustee's death. If all beneficiaries die before the trustees, the Account is no longer a "payable on death" account.

We may require proof, acceptable to us, of the Account owner's death and the beneficiary's identity before paying any part of the Account balance to any beneficiary.

We do not provide tax advice. You should consult with your tax advisor concerning the appropriateness of these accounts for your own situation.

**Fiduciary Accounts**

If you open an Account in "fiduciary" ownership, you hold the funds in the Account for someone else's benefit. A fiduciary can include an executor, administrator, personal representative, guardian, conservator, trustee or other fiduciary. You agree that we serve only as a depository for the funds, and that we are not responsible for making sure that you fulfill your duties as a fiduciary.

### **Trust Accounts**

If you open an Account as a trust account, the Account will be governed by a written trust agreement, which will designate one or more trustees and one or more successor trustees. Only the named trustees or successor trustees may conduct transactions on the Account, and they may do so only according to the terms of the trust agreement and applicable law.

The trustees are responsible for complying with the trust agreement and applicable law, and we are not responsible for making sure the trustees comply with the trust agreement or applicable law.

### **Uniform Transfers to Minors Act and Uniform Gifts to Minors Act Accounts**

In this section and your Account Agreement, "UTMA" means the Uniform Transfers to Minors Act. "UGMA" means the Uniform Gifts to Minors Act.

If you open an Account as "custodian" for a minor under a state's UTMA or UGMA (the "Act"), you, as custodian, control the funds on the minor's behalf. We will therefore accept withdrawal requests and other instructions for the Account only from you as custodian. TCF may, however, disclose information about the Account to the minor or to the minor's representative.

You are responsible for complying with the Act's requirements, and we are not responsible for making sure you comply with the Act. We do not have to monitor or investigate your use of funds in the Account, or determine whether your use of the funds is for the minor's benefit.

You agree to keep us informed of the minor's current address. We may, but are not required to, turn over the Account balance to the minor when the minor reaches the age of majority under the Act.

The Act for the state where you live (primary residence) when you open your Account (as shown in our account records for your Account) will apply unless your Account Agreement specifies a different state.

### **Community Property Accounts**

If your Account is as a community property account, the Account owners are spouses and each has an equal and undivided interest in the Account during their lifetimes. As with a joint tenancy account, you agree that we may accept deposits, withdrawal requests, or other instructions from any one of the owners without permission from the other owners. When one spouse dies, ownership does not automatically pass to the surviving spouse. Instead, the deceased spouse can pass his or her interest by will.

Community property accounts are available only in community property states, and only if we agree in writing to establish your Account as a community property account. You should ask your

own legal advisor if your Account will be treated as a community property account.

### **Marital Property Accounts (Only in Wisconsin)**

If your Account is as a marital property account, the Account owners are spouses and each has an equal and undivided interest in the Account during their lifetimes. As with a joint tenancy account, you agree that we may accept deposits, withdrawal requests, or other instructions from any one of the owners without permission from the other owners. When one spouse dies, 50% of the funds belong to the surviving spouse and 50% of the funds belong to the estate of the deceased spouse, or if applicable, are paid to the payable-on-death beneficiary.

Marital property accounts are available only in Wisconsin and only if we agree in writing to establish your Account as a marital property account.

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## *Contact Us*

### Customer Service

1-800-TCF-BANK (1-800-823-2265)

612-TCF-BANK (612-823-2265)  
in the Twin Cities metro area

**TTY (hearing impaired)**  
1-800-343-6145 or 612-339-3075

TCF National Bank  
ATTN Customer Service  
1405 Xenium Lane North  
Plymouth, MN 55441

[tcfbank.com](http://tcfbank.com)

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