Credit Card Agreement for Discover by Capital One N.A.

There are two parts to this Credit Card Agreement: **Capital One Pricing Information** and the **Capital One Customer Agreement**. The **Pricing Information** shows a range of terms that includes both mail and online offers for new accounts available under this Agreement as of September 30, 2026. The combination of terms that could apply to you will differ depending on the specific card offer and on your creditworthiness at the time of application. Not all offers will contain introductory rates. The **Customer Agreement** contains important information related to consumer credit cards issued by Capital One, N.A. Please visit www.capitalone.com to view our online credit card offers. If you are a current Capital One cardholder, please log in to your account if you would like to request the Credit Card Agreement for your account(s).

CAPITAL ONE PRICING INFORMATION	
Annual Percentage Rate (APR) for Purchases	Non-introductory rates between **16.49%** and **29.24%**. This APR will vary with the market based on the Prime Rate.
APR for Transfers	Non-introductory rates between **16.49%** and **29.24%**. This APR will vary with the market based on the Prime Rate.
APR for Cash Advances	Non-introductory rates between **28.49%** and **29.24%.** This APR will vary with the market based on the Prime Rate.
Paying Interest	Your due date is at least 25 days after the close of each billing cycle. We will not charge you interest on new purchases, provided you have paid your previous balance in full by the due date each month. We will begin charging interest on cash advances and transfers on the transaction date.
For Credit Card Tips from the Consumer Financial Protection Bureau	To learn more about factors to consider when applying for or using a credit card, visit the website of the Consumer Financial Protection Bureau at **http://www.consumerfinance.gov/learnmore**.

Annual Fee	**None.**
Transaction Fees	
• Transfer	**None** for balances transferred at the Transfer APR.
• Cash Advance	Either **$10** or **5%** of the amount of each cash advance, whichever is greater.
Penalty Fees	
• Late Payment	Up to **$41**.
• Returned Payment	Up to **$30**.

How Do You Calculate My Balance? We use a method called "average daily balance (including new transactions)." See "How Do You Calculate The Interest Charge?" section below.

What Are My Billing Rights? Information on your rights to dispute transactions and how to exercise those rights is provided in "Your Billing Summary" on your Statement and other Truth-in-Lending Disclosures.

THINGS YOU SHOULD KNOW ABOUT THIS CARD

How Do You Calculate My Variable Rates? Your variable rates may change when the Prime Rate changes. We calculate variable rates by adding a percentage to the Prime Rate published in *The Wall Street Journal* on the 25th day of December, March, June and September. If the *Journal* is not published on that day, then see the immediately preceding edition. Variable rates on the following segment(s) will be updated quarterly and will take effect on the first day of your January, April, July and October billing periods: Non-Introductory Purchase APR: Prime plus a margin between 9.74% and 22.24%; Non-Introductory Transfer APR: Prime plus a margin between 9.74% and 22.24%; Cash Advance APR: Prime plus a margin between 21.74% and 22.24%. Any increase in the Prime rate may increase your Interest Charges and your Minimum Payment.

What Are The Daily Periodic Rates Used To Calculate My Interest? The daily periodic rate for your Non-introductory Purchase APR is between 0.04518% and 0.08011%, Non-introductory Transfer APR is between 0.04518% and 0.08011%, and Cash Advance APR is between 0.07805% and 0.08011%. See "How Do You Calculate The Interest Charge?" section below.

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

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

At the end of each billing cycle, we determine your Interest Charge as follows: 1) multiply your Average Daily Balance by the daily periodic rate (APR divided by 365) for that segment, and 2) multiply the result by the number of days in the billing period.

NOTE: Due to rounding or a minimum interest charge, this calculation may vary from the interest charge actually assessed.

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Discover by Capital One Customer Agreement

Welcome to Capital One

Thank you for opening a credit card account with us. This Customer Agreement, including any changes to it ("Agreement"), contains the terms of your agreement with Capital One.

Definitions

The meanings of the terms you see in italics appear in the **Glossary** section of this Agreement.

As used here, "you" and "your" mean each applicant and co-applicant for the *Account*; any person responsible for paying the *Account*; and any person responsible for complying with this Agreement. "We," "us," "our," and "Capital One" mean Capital One, National Association; and its agents, authorized representatives, successors, and assignees.

Account Documents

The following documents govern your *Account* with us:

(1) this Agreement;
(2) all *Statements*;
(3) any rewards program terms, conditions, and disclosures;
(4) any privacy notices;
(5) all disclosures and materials provided to you before or when you opened your *Account*;
(6) any other documents and disclosures relating to your *Account*, including those provided online; and
(7) any future changes we make to any of the above.

Please read these carefully and keep them for future reference.

New Offers

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

Account Information

We need information about you to manage your *Account*. This includes:

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

You must tell us when this information changes. We may ask you for additional documents to verify any changes. We may restrict or close your *Account* if we cannot verify your information, or if you do not provide it as requested.

Credit Limits

When you open your *Account*, we will tell you your credit limits. These will also appear on your *Statement*. We may also refer to your credit limits as your credit lines. We may give you different credit limits for the different *Segments* of your *Account*. For example, you may have one credit limit for purchases and a different one for *Cash Advances*.

You are responsible for keeping track of your *Segment* balances and your available credit. You must manage your *Account* to remain below your credit limits. We may honor transactions above your credit limits, but if we do these transactions will not increase your credit limit. You are responsible for paying for any transaction you make above your credit limits.

We may also increase, decrease, restrict or cancel your credit limit on any *Segment* at any time. This will not affect your obligation to pay us.

Using Your Account

(1) This Agreement applies whether or not you use your *Card* or *Account*. It will continue to apply even after your *Account* is closed, as long as you have a balance.
(2) You must return the *Card* to us or destroy it if we ask you to.
(3) You must take reasonable steps to prevent the unauthorized use of your *Card, Access Checks* and *Account*.
(4) We may decline to authorize a transaction for any reason. This may occur even if the transaction would not cause you to go over your credit limit or your *Account* is not in default.
(5) We are not responsible for any losses you incur if we do not authorize a transaction.
(6) We are not responsible for any losses you incur if anyone refuses to accept your *Card* for any reason.
(7) Unless we tell you otherwise, we will bill each transaction to the applicable *Segment* of your *Account*. We will apply it against your available credit for that *Segment*.
(8) You may obtain *Cash Advances* and *Transfers* as permitted for your *Account*. *Transfers* are available at our discretion and may not be available at all times. You may not use these to pay any amount you owe us or any other company in the Capital One organization.
(9) You must not use, or try to use, the *Card* for any illegal activity. You are responsible for any charges if you do.
(10) We are not liable for any losses that may result when our services are unavailable due to reasons beyond our control.
(11) This *Card* is intended primarily for personal, family, or household purposes.

Rewards

Your *Account* may provide you with the opportunity to earn rewards. If it does, we will separately provide you with information and terms about the rewards. We provide updated rewards program information on our website.

Access Checks

We may provide you with *Access Checks*. If we do, we will tell you at the time if we consider them purchases, *Cash Advances* or *Special Transfers*.

Only the person we designate may use *Access Checks*. You may not use them to pay any amount you owe us or any other company in the Capital One organization. We may reject and not pay any *Access Check* if:

(1) your *Account* is past due, charged off, bankrupt, lost/stolen or closed;
(2) we suspect fraud;
(3) your *Account* is over the credit limit; or
(4) the check has expired, is damaged or cannot otherwise be processed.

Our liability if we do not pay an *Access Check* will never be more than (1) your actual damages or (2) the amount of the *Access Check*, whichever is less.

Use of an *Access Check* is not the same as using your *Card*. When you use an *Access Check*, you will have fewer rights to dispute merchant transactions than with uses of your *Card*. Please see the "Billing Rights Summary" on your *Statement* and your other *Truth-in-Lending Disclosures* for more information.

Stopping Payment of Access Checks

You may request a stop payment on *any Access Check* by contacting Customer Service.

We will have a reasonable amount of time after your stop payment request to research and complete the stop payment. We will not be responsible if we cannot complete the stop payment. Reasons include:

(1) the *Access Check* was already paid;
(2) you do not give us the information we asked for; or
(3) the information you gave us was incorrect.

We do not have to release the stop payment order unless the account holder who made the request asks us to. If we re-credit your *Account* after a valid stop payment order, you give us all of your rights against the payee or other holder of the paid *Access Check*. You also agree to help us in any legal action we may later take against the payee or other holder of the check.

Using a PIN

We may give you a personal identification number (PIN). For security reasons, you may have to provide the PIN before you are able to use your *Card*.

Keep your PIN secure. Do not write it down, give it to anyone, or keep it with your *Card*. If you lose your *Card* or believe the confidentiality of your PIN has been compromised for any reason, you must contact Customer Service immediately.

Authorized Users

If you ask us to issue a *Card* to any other person, they are an *Authorized User*. We may require certain information about them. We may limit their ability to use your *Card*. They may have access to certain information about your *Account*. You will be responsible for their use of the *Account* and anyone else they allow to use your *Account*, even if you did not want, or agree to, that use.

Removing an Authorized User

If you want to remove an *Authorized User* from your *Account*, you must contact Customer Service and request their removal. You also must immediately destroy all *Cards* in their possession and cancel any arrangements they may have set up on your *Account*. They will be able to use your *Account* until you have notified us that you are removing them from your *Account*. During this time, you will still be responsible for all amounts they charge to your *Account*. You will be responsible even if these amounts do not appear on your *Account* until later.

Authorized Users may remove themselves from your *Account* upon request. We reserve the right to remove them from your *Account* for any reason. To remove them from your *Account*, we may close your existing *Account* and issue a new *Card* with a new *Account* number.

Your Promise to Pay

You promise to pay us all amounts due on your *Account*. This includes amounts where you did not sign a purchase slip or other documents for the transaction. We will treat transactions made without presenting your actual *Card* (such as for mail, telephone, Internet, or mobile device purchases) the same as if you used the *Card* in person. If you let someone else use your *Card*, you are responsible for all transactions that person makes.

Statements

We will generally send, or make available to you, one *Statement* for all *Cards* on your *Account* at the end of each *Billing Cycle*. Under certain circumstances, the law may not require us to send, or make available to you, a *Statement*, or may prohibit us from doing so.

Disputed Transactions

You must inspect each *Statement* you receive. Tell us about any errors or questions you have, as described in the "Billing Rights Summary" on your *Statement* and other *Truth-in-Lending Disclosures*. If you do not notify us of an error, we will assume that all information on the *Statement* is correct.

If we credit your *Account* for all or part of a disputed transaction, you give us all of your rights against others regarding that transaction. You will also:

(1) give us any information about the disputed transaction, if we ask;
(2) not pursue any claim or reimbursement of the transaction amount from the merchant or any other person; and
(3) help us get reimbursement from others.

No Warranties

We are not responsible for any claim you may have regarding the purchase of goods or services made with your *Card* beyond your rights described in the "Billing Rights Summary" on your *Statement*.

Lost or Stolen Card

If your *Card* is lost or stolen or if you think someone else may be using your *Card* or *Account* number without your permission, you must contact Customer Service immediately. You will not be responsible for transactions on your *Account* that we find are unauthorized.

If we reimburse you for unauthorized transactions, you will help us investigate, pursue and get reimbursement from

the wrongdoer. Your help includes giving us documents in a form that we request.

Interest Charges and Fees

We will charge *Interest Charges* and *Fees* to your *Account* as disclosed on your *Statement* and other *Truth-in-Lending Disclosures*. In general, *Interest Charges* begin to accrue from the day a transaction occurs. However, we will not charge you interest on any new transactions posted to the purchase *Segment* of your *Account* if you paid the total balance across all *Segments* of your *Account* in full by the due date on your *Statement* each month. From time to time, we may give you offers that allow you to pay less than the total balance and avoid *Interest Charges* on new purchase *Segment* transactions. If we do, we will provide details in the specific offer.

We will generally treat *Fees* as purchase transactions unless otherwise specified below. These *Fees* apply to your *Account* only if your *Truth-in-Lending Disclosures* provide for them. We may increase your *Interest Charges* and *Fees* as described in the **Changes to Your Agreement** section or in your *Truth-in-Lending Disclosures*.

Membership Fee

If your *Account* has a membership *Fee*, we may charge the first membership *Fee* either on the day you activate your *Card* or on the day when you use your *Account*, whichever occurs first. If your *Account* terms include a $0 introductory *Fee*, we may charge the first *Fee* when the introductory period ends. If it is an annual *Fee*, we may then charge it approximately once per year. If it is a monthly *Fee*, we may charge it each *Billing Cycle*.

Late Payment Fee

We may charge you this *Fee* if we do not receive your payment as instructed on your *Statement* by the payment due date.

Returned Payment Fee

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

Stop Payment Fee

We may charge you this *Fee* each time you ask us to (1) stop payment on an *Access Check* or (2) renew an existing stop payment order.

Cash Advance Fee

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

Transfer Fee

We may charge you this *Fee* each time you make a *Transfer*. We will charge the *Fee* to the same *Segment* where we post the *Transfer*.

Transactions Made in Foreign Currencies

If you make a transaction in a foreign currency, the *Payment Card Network* will convert it into a U.S. dollar amount. T*he Payment Card Network* will use its own currency conversion procedures. The conversion rate in effect on the processing date may differ from the rate in effect on the transaction date that appears on your *Statement*. We do not adjust the currency exchange rate or charge any currency conversion *Fees*.

Minimum Payment

You must pay us at least the minimum payment amount by the payment due date. Your *Statement* will tell you:

(1) the minimum payment due,
(2) your new balance,
(3) the payment due date, and
(4) an explanation of when the payment must reach us for us to consider it received as of that date.

In addition to the minimum payment, you may pay all or part of the total balance on your *Account*. But, you must still pay at least the minimum payment amount each month, even if you paid more than the minimum payment due on the previous *Statement*. We will continue to charge *Interest Charges* during *Billing Cycles* when you carry a balance regardless of whether your *Statement* includes a minimum payment that is due. If your *Account* is 180 days past due, is part of a bankruptcy proceeding or is otherwise charged off, the total balance is immediately due and payable.

Making Payments

Your payment must be made in U.S. dollars from a U.S. deposit account in a form acceptable to us. We do not accept cash payments through the mail. You may not make payments with funds from your *Account* or any other credit account with us or any other company in the Capital One organization. You must send mailed payments to us as instructed on your *Statement*, unless we tell you otherwise.

Other Payment Services

We may make services available that allow you to make faster or recurring payments online or by telephone. We will describe the terms for using these services and any applicable *Fee* before you use them. You do not have to use these other payment services.

We are not responsible if your financial institution rejects a payment made using our payment services.

If you ask someone else to make a payment for you, we may provide that person with limited *Account* information necessary to set up and process that payment. We may also refuse to accept that payment. If we do accept it, you will be responsible for that payment even if a financial institution rejects it.

Payment Processing

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

When you send us an *Item* as payment, you authorize us to make a one-time electronic fund transfer from your deposit account. You also authorize us to process the payment as an *Item*. We may withdraw the funds from your deposit account as early as the same day we receive

your payment. You will not receive your *Item* back from your bank. We will provide additional information about this process on your *Statement*.

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

How We Apply Your Payments

Your *Account* may have *Segments* with different Annual Percentage Rates (APR). For example, purchases may have a lower APR than *Cash Advances*. If your *Account* has *Segment* balances with different APRs, here is how we apply payments in a *Billing Cycle*:

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

Items with Restrictive Words, Conditions, or Instructions

You must mail all *Items* bearing restrictive words, conditions, limitations, or special instructions to:

Capital One
P.O. Box 1330
Charlotte, NC 28201-1330

This includes *Items* marked "Paid in Full" or similar language. This also includes all accompanying communications.

If you make such a payment or send any accompanying communications to any other address, we may reject it and return it to you. We may also accept it and process it without losing any of our rights.

Credit Balances

We may reject and return any payment that creates or adds to a credit balance on your *Account*. Any credit balance we allow will not be available until we confirm that your payment has cleared. We may reduce the amount of any credit balance by any new charges. You may write to the address provided on your *Statement* or call Customer Service to request a refund of any available credit balance.

Account Default

You will be in default if:

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

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

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

Communications

You agree that we may communicate with you by mail, telephone, email, fax, prerecorded message, automated voice, text message or other means allowed by law regarding your *Account*.

You agree that we may contact you at any telephone number (including a mobile telephone number that you provide us), and use an automated telephone dialing system or similar device to do so. You agree that we may monitor or record any conversation or other communication with you.

Credit Reports

We may report information about your *Account* to credit bureaus and others. Late payments, missed payments, or other defaults on your *Account* may be reflected in your credit report. Information we provide may appear on your and the *Authorized Users'* credit reports.

If you believe that we have reported inaccurate information about your *Account* to a credit bureau or other consumer reporting agency, notify us in writing at Capital One, P.O. Box 30281, Salt Lake City, UT 84130-0281. When you write, tell us the specific information that you believe is incorrect and why you believe it is incorrect.

We may obtain and use credit, income and other information about you from credit bureaus and others as the law allows.

Closing or Suspending Your Account

You may contact Customer Service to ask us to close your *Account*.

We may close or suspend your *Account* at any time and for any reason permitted by law, even if you are not in default.

If we close or suspend your *Account* for any reason, you must stop using your *Card*. You must also cancel all billing arrangements set up on the *Account*. If we close or permanently suspend your *Account*, you must return or

destroy all *Cards*. You must still pay us all amounts you owe on the *Account*.

Changes to Your Agreement

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

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

The Law That Applies to Your Agreement

We make decisions to grant credit and issue you a *Card* from our offices in Virginia. This Agreement is governed by applicable federal law and by Virginia law. If any part of this Agreement is unenforceable, the remaining parts will remain in effect.

Waiver

We will not lose any of our rights if we delay or choose not to take any action for any reason. We may waive our right without notifying you. For example, we may waive your *Interest Charges* or *Fees* without notifying you and without losing our right to charge them in the future.

Assignment

This Agreement will be binding on, and benefit, any of your and our successors and assigns. You may not sell, assign or transfer your *Account* or this Agreement to someone else without our written permission.

We may sell, assign or transfer your *Account* and this Agreement without your permission and without prior notice to you. Any assignee or assignees will take our place under this Agreement. You must pay them and perform all of your obligations to them and not us. If you pay us after we notify you that we have transferred your *Account* or this Agreement, we can return the payment to you, forward the payment to the assignee, or handle it in another way that is reasonable.

Glossary

- ***"Access Check"*** means any check we send to you to access credit from your *Account*. We may also refer to an *Access Check* as a "convenience check" or a "purchase check".
- ***"Account"*** means your *Card Account* with us.
- ***"Authorized User"*** means a person who may use the *Card*, but is not responsible for the repayment of the *Account*.
- ***"Balance Transfer"*** means a *Transfer* posted to the purchase *Segment* of your *Account* unless otherwise described in your *Truth-in-Lending Disclosures*.
- ***"Billing Cycle"*** means the period of time reflected on a *Statement*. This period may vary in length, but is approximately 30 days. You will have a *Billing Cycle* even if a *Statement* is not required. We will often specify a *Billing Cycle* by the month in which its closing date occurs. For example, a "March *Billing Cycle*" will have a closing date in March. We may also refer to a *Billing Cycle* as a "Billing Period". If your *Account* balance has charged off, we may switch to quarterly *Billing Cycles* for your *Account*.
- ***"Card"*** means any Capital One credit card associated with your *Account*. This includes all renewals and substitutions. It also means any other access device for your *Account* we give you that allows you to obtain credit, including any *Account number*.
- ***"Cash Advance"*** means a loan in cash, or transactions that a payment network, a merchant, or we consider to be cash equivalents. Examples of transactions that are considered cash equivalents include, but are not limited to, use of your *Account* for wire transfers, travelers' checks, money orders, foreign currency, digital currency, cryptocurrency, online gambling, lottery tickets, gaming chips, wagers, debt servicing payments, person-to-person money transfers, bill payments, transferring funds to an account or virtual wallet, or use of any third party service or application to make payments. We post *Cash Advances* to the *Cash Advance Segment* of your *Account* and not to your purchase *Segment*.
- ***"Fees"*** means charges imposed on your *Account* not based on the Annual Percentage Rates.
- ***"Interest Charges"*** means any charges to your *Account* based on the application of Annual Percentage Rates.
- ***"Item"*** means a check, draft, money order or other negotiable instrument you use to pay your *Account*. This includes any image of these instruments. This does not include an *Access Check*.
- ***"Payment Card Network"*** means the network provider displayed on your *Card*. This may be Discover, Diners Club International, Pulse, or any other network provider.
- ***"Segments"*** means the different parts of your *Account* we may establish that are subject to unique APRs, pricing, or other terms. We create these parts of your *Account* for such things as your purchases, *Balance Transfers*, *Cash Advances* and *Special Transfers*. The sum of your *Segment* balances equals your total *Account* balance.
- ***"Special Transfer"*** means a *Transfer* posted to a *Segment* of your *Account* that is not your purchase *Segment* or *Cash Advance Segment*.
- ***"Statement"*** means a document showing important *Account* information, including all transactions billed to your *Account* during a *Billing Cycle* and information about what you must pay. We may also refer to your *Statement* as a "Periodic *Statement*" or a "Billing *Statement*".
- ***"Transfers"*** means amounts transferred from other accounts to this *Account* and includes *Balance Transfers* and *Special Transfers*.
- ***"Truth-in-Lending Disclosures"*** means disclosures that the federal Truth in Lending Act and Regulation Z require for any *Account*. This includes your application and solicitation disclosures, *Account* opening disclosures, subsequent disclosures, *Statements*, and change in terms notices.

Arbitration Agreement

Agreement to Arbitrate. In the event of a dispute between you and us arising out of or relating to this *Account* or the relationships resulting from this *Account* or any other dispute between you or us, including, for example, a dispute based on a federal or state statute or local ordinance ("Claim"), either you or we may choose to resolve the Claim by binding arbitration, as described below, instead of in court. Any Claim (except for a Claim challenging the validity or enforceability of this arbitration agreement, including the Class Action Waiver, or the failure to comply with the Claim Notice procedure described below) may be resolved by binding arbitration if either party requests it. THIS MEANS IF EITHER YOU OR WE CHOOSE ARBITRATION, NEITHER PARTY WILL HAVE THE RIGHT TO LITIGATE SUCH CLAIM IN COURT OR TO HAVE A JURY TRIAL. ALSO DISCOVERY AND APPEAL RIGHTS ARE LIMITED IN ARBITRATION.

Even if all parties have opted to litigate a Claim in court, you or we may elect arbitration with respect to any Claim made by a new party or any new Claims later asserted in that lawsuit.

This arbitration agreement does not apply if, on the date you submit your application, you are an active duty covered member of the Armed Forces or a dependent of such a member under the federal Military Lending Act.

CLASS ACTION WAIVER. EXCEPT AS PROVIDED IN THE AMERICAN ARBITRATION ASSOCIATION'S MASS ARBITRATION SUPPLEMENTARY RULES WHEN APPLICABLE, ARBITRATION MUST BE ON AN INDIVIDUAL BASIS. THIS MEANS NEITHER YOU NOR WE MAY JOIN OR CONSOLIDATE CLAIMS IN ARBITRATION BY OR AGAINST OTHER ACCOUNT HOLDERS, OR LITIGATE IN COURT OR ARBITRATE ANY CLAIMS AS A REPRESENTATIVE OR MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.

The arbitrator may award injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual Claim. The arbitrator may not award class, representative, or public injunctive relief. If a court decides that applicable law precludes enforcement of any of this paragraph's limitations as to a particular Claim for relief, then after all appeals from that decision have been exhausted, that Claim (and only that Claim) must be severed from the arbitration and may be brought in court. Only a court, and not an arbitrator, shall determine the validity, scope, and effect of the Class Action Waiver.

Your and Our Right to Go to Small Claims Court. You and we will not choose to arbitrate any individual Claim you or we bring in small claims court (or an equivalent court). This means you or we may bring an action in small claims court (or an equivalent court) without being subject to arbitration. However, if a Claim is transferred, removed, or appealed from small claims court to a different court, or if any Claim brought in small claims court exceeds the small claims court limit, you or we may then choose to arbitrate.

Governing Law and Rules. This arbitration agreement is governed by the Federal Arbitration Act ("FAA"). Arbitration must proceed only with the American Arbitration Association ("AAA"). The rules for the arbitration will be those in this arbitration agreement and the procedures of the AAA, including its Mass Arbitration Supplementary Rules when applicable, but the rules in this arbitration agreement will be followed if there is disagreement between the arbitration agreement and the AAA's procedures. If the AAA's procedures change after the Claim is filed, the procedures in effect when the Claim was filed will apply.

For a copy of the AAA's procedures, to file a Claim or for other information, please contact the AAA at 1101 Laurel Oak Rd., Voorhees, NJ 08043, www.adr.org.

If the AAA is completely unavailable, and if you and we cannot agree on a substitute, then either you or we may request that a court with jurisdiction appoint a substitute.

Fees and Costs. If you wish to begin arbitration against us but you cannot afford to pay your share of the AAA's or arbitrator's costs and cannot obtain a waiver of costs from the AAA, we will advance those costs if you ask us in writing and are acting in good faith. Any request like this should be sent to Capital One, P.O. Box 30035, Salt Lake City, UT 84130-0035. If you lose the arbitration, the arbitrator will decide whether you must reimburse us for money we advanced for you for the arbitration. If you win the arbitration, we will not ask for reimbursement of money we advanced. Additionally, if you win the arbitration, the arbitrator may decide that you are entitled to be reimbursed your reasonable attorneys' fees and costs (if actually paid by you). The arbitrator may also allocate compensation, expenses, and administrative fees (which include filing and hearing fees) to any party upon the arbitrator's determination that the party's Claim or counterclaim was filed for purposes of harassment or is patently frivolous.

Hearings and Decisions. Arbitration hearings will take place in the federal judicial district where you live. A single arbitrator will be appointed. The arbitrator must:

- Follow all applicable substantive law, except when contradicted by the FAA;
- Follow applicable statutes of limitations;
- Honor valid claims of privilege; and
- Issue a written decision including the reasons for the award.

The arbitrator's decision will be final and binding except for any review allowed by the FAA. However, if more than $100,000 was genuinely in dispute, then either you or we may choose to appeal to a new panel of three arbitrators. The appellate panel is completely free to accept or reject the entire original award or any part of it. The appeal must be filed with the AAA not later than 30 days after the original award issues. Appeal costs will be allocated consistent with the AAA's Consumer Arbitration Rules and Due Process Protocol.

Any arbitration award may be enforced (such as through a judgment) in any court with jurisdiction. Any finding, award, or judgment from an arbitration of any Claim shall apply only to that arbitration. No finding, award, or judgment from any other arbitration shall impact the arbitration of any Claim.

Claim Notice and Special Payment. If you or we have a Claim, before initiating an arbitration proceeding, you or we must give written notice of the Claim ("Claim Notice") at least 30 days before initiating the arbitration proceeding. The statute of limitations for your Claim will be tolled for 30 days from Capital One's receipt of the Claim Notice. Your Claim Notice must be personally signed by you, and must include your name, address, and account number and explain in reasonable detail the nature of the Claim and any supporting facts. Any Claim Notice shall be sent to us at Capital One, P.O. Box 30035, Salt Lake City, UT 84130-0035 (or such other address as we shall subsequently provide to you). We will send any Claim Notice to the most recent address we have on file for you. If our Claim is based on your failure to pay, sending you a *Statement* fulfills this Claim Notice requirement. The Claim Notice is a condition precedent to the filing of any Claim in arbitration and a court can enjoin the filing or prosecution of an arbitration in breach of this section. If, and only if, (1) you submit a Claim Notice in accordance with this arbitration agreement on your own behalf (and not on behalf of any other party); and (2) an arbitrator, after finding in your favor in any respect on the merits of your Claim, issues you an award that (excluding any arbitration fees or attorneys' fees and costs awarded by the arbitrator) is greater than the value of Capital One's last written settlement offer made before an arbitrator was selected, then you will be entitled to the amount of the award or $7,500, whichever is greater. If you are entitled to the $7,500, you will receive in addition any arbitration fees or attorneys' fees and costs awarded by the arbitrator.

Other Beneficiaries of this Arbitration Agreement. In addition to you and us, the rights and duties described in this arbitration agreement apply to: our affiliates, successors, subsidiaries, and our and their officers, directors and employees; any third party codefendant of a Claim subject to this arbitration agreement; and all joint account holders and *Authorized Users* of your *Account*.

Changes to Your Arbitration Agreement. Any change to this arbitration agreement will be governed by this paragraph and not the **Changes to Your Agreement** section in the Customer Agreement. We may add, delete, or change any term of this arbitration agreement. We will give you advance written notice of any change to this arbitration agreement. Our notice will tell you when and how the changes will take effect, and how you can reject or avoid them if you choose.

Survival of this Arbitration Agreement. This arbitration agreement shall survive:

- closing of your *Account*;
- voluntary payment of your *Account* or any part of it;
- any legal proceedings to collect money you owe;
- any bankruptcy by you; and
- any sale, assignment, or transfer by us of your *Account*.

You have the right to reject arbitration for this *Account*. You may reject the arbitration agreement but only if we receive from you a written notice of rejection within 30 days of the effective date of this arbitration agreement, the effective date of a modification to this arbitration agreement, or your receipt of the *Card* after your *Account* is opened, whichever is later. You must send the notice of rejection to: Capital One, P.O. Box 30022, Salt Lake City, UT 84130-0022.

Your rejection notice must include your name, address, phone number, *Account* number and personal signature. No one else may sign the rejection notice for you. Your rejection notice must not be sent with any other correspondence. Rejection of arbitration will not affect your other rights or responsibilities under the Customer Agreement. If you reject arbitration, neither you nor we will be subject to the arbitration agreement for this *Account*. Rejection of arbitration for this *Account* will not constitute rejection of any prior or future arbitration agreement between you and us.

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BY Capital One

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