

## BANKWELL'S FUNDS TRANSFER AND POPMONEY AGREEMENT

This Funds Transfer and Popmoney Agreement ("Agreement" or "Terms and Conditions") is a contract that governs your ability to use an online money movement service provided to you by Bankwell Bank (hereinafter referred to as "the Bank"), and our service provider, CashEdge Inc. ("Service Provider"). The Funds Transfer service allows you to transfer funds to or from your eligible Bankwell accounts and other accounts held by you at Bankwell and at other external U.S. financial institutions ("Accounts"), assuming that the transfer is permitted by the relevant financial institution and by law. The Popmoney service allows you to electronically send money to other people via their email address, mobile phone number or directly to their Account held at Bankwell or at other U.S. financial institutions. You may not use the Popmoney service to make transfers internationally. In this Agreement the Funds Transfer service and the Popmoney service are individually and collectively referred to as the "Service." The terms "Bank," "we," "us," and "our" refer to Bankwell Bank. The terms "you" or "your" refer to the account holder authorized by the Bank to use the Service and anyone else who uses the Service with the permission of the account holder. By using the Service, you agree to, and acknowledge that you have read and understand, the terms and conditions of this Agreement.

By signifying your acceptance of this Agreement, you acknowledge and agree that you accepted the Consumer Disclosure and Consent contained in the Electronic Banking Access Agreement you previously accepted. You agree that the Consumer Disclosure and Consent and the provisions of the "Electronic Communications" section of this Agreement allow us to provide this Agreement to you in electronic form. By clicking the "I accept these Terms and Conditions" button to signify your acceptance of this Agreement you agree that you are providing your electronic signature and that it signifies your acceptance of this Agreement.

### 1) SCOPE OF AGREEMENT

This Agreement sets forth the terms and conditions on which the Bank and our Service Provider will provide, and you may use, the Service (the "Terms"). The Terms are in addition to, and do not cancel or supersede, any other Bank account agreements (including, without limitation, our Electronic Banking Access Agreement, rules, disclosures, procedures, standards, policies, or signature cards relating to your deposits, loans or other business relationships with the Bank (collectively, the "Account Disclosures"). Except as provided in this Agreement, all of the terms, conditions, agreements, disclosures, and fees set forth in the Account Disclosures, as the Bank provides and updates them from time to time, shall remain in full force and effect. If this Agreement conflicts with another agreement or Account Disclosure we have with you, then this Agreement will control and take precedence, only with respect to the Service and only to the extent necessary to resolve the conflict or inconsistency.

Additionally, your access to and use of the Service will be subject to all of the terms or instructions that may appear on a screen when you access the Service, and applicable state and federal laws and regulations.

### 2) ACCEPTANCE OF TERMS

When you click on the button labeled "I accept these Terms & Conditions", you agree to accept the terms and conditions of the Agreement (the "Terms"), including any amendments to this Agreement or any changes in the Terms. You will then enroll online for the Service. To use the Service you must be at least eighteen (18) years old and be a resident of the United States. If you do not accept and agree to all of the Terms, you will not be entitled to use the Service. You can review, download and print the most current version of this Agreement from the Bank's website at <http://mybankwell.com/>.

### 3) VERIFICATION OF INFORMATION

By clicking on the button labeled "I accept these Terms & Conditions", you authorize us to verify your identity. You agree that we may do this, if we choose, by obtaining a consumer report from a consumer reporting agency. We and our Service Provider will obtain and use your credit information only in accordance with the Fair Credit Reporting Act ("FCRA") and other applicable law. We reserve the right to deny you access to the Service if we cannot verify your identity or other necessary information and/or based upon our review of your consumer report, along with other information we deem relevant. If we deny you access to the Service, you may obtain a free copy of the consumer report that we used from the consumer reporting agency that issued the report, if we obtained one and used it in making our decision. You may view, download and print a summary of your rights under FCRA, including information on how to obtain a copy of your consumer report, at any time by contacting the Bank.

In addition to obtaining a consumer report, we and our Service Provider reserve the right to obtain such additional information from time to time as we deem reasonably necessary to ensure that you, or persons to whom you may transfer funds, are not using our Service in violation of law, including, but not limited to, laws and regulations designed to prevent "money laundering" or the transfer of funds to or from persons or organizations whose accounts are blocked under regulations of the Office of Foreign Asset Control (OFAC) of the United States Treasury Department.

Once you are enrolled in the Service we may verify your Accounts that you add to the Service from time to time. You authorize us to validate the Accounts through the use of a test transfer, in which one or more low value payments will be both credited to and debited from the Account. The test credit will always occur before the test debit and will always be of the same or lesser amount, so that the balance in any of your Accounts will never be less than the actual balance.

Once the test transfer is complete we may ask you to access your Account to tell us the amount of the test credit or debit or any additional information reported by your bank with this test transfer. We may also verify Accounts by requiring you to enter information you ordinarily use to access the Account provider's website, or by requiring you to submit proof of ownership of the Account. Other Account verification methods may also be employed at the sole discretion of the Bank and/or our Service Provider.

### 4) USER CONTENT

Subject to the Bank's Privacy Policy, you agree that the Bank and our Service Provider may use, copy, modify, display and distribute any information, data, materials or other content (the "Content") you

provide to us for the purpose of using the Service, and you hereby give us a license to do so. By submitting Content, you represent that you have the right to license such Content to us for the purposes set forth in this Agreement.

## 5) ACCOUNTS

You acknowledge that in order to complete fund transfers, it is necessary for us and our Service Provider to access the websites and databases of the Bank and other financial institutions where you hold Accounts, as designated by you and on your behalf, to retrieve information and effect the fund transfers you request. By using the Service, you represent and warrant to us that: (a) you have the right to authorize and permit us to access your Accounts to effect such funds transfers or for any other purpose authorized by this Agreement; (b) by disclosing and authorizing us to use such information you are not violating any third party rights; (c) the information you are providing us with is true, current, correct and complete; (d) you are who you claim to be; and (e) you are the rightful owner of all Content and of the Accounts linked for the purposes of the Service.

You hereby authorize and permit us and our Service Provider to use information submitted by you to accomplish these purposes and to configure the Service to be compatible with the Accounts.

For as long as you are using the Service, you give to us and our Service Provider a limited power of attorney and appoint us and our Service Provider as your true and lawful attorney-in-fact and agent, with full power of substitution, for you, in any and all capacities, to access the Accounts and effect funds transfers as described in this Agreement. As your attorney-in-fact and agent we shall have full power and authority to perform each and every act necessary to be done in connection with effecting funds transfers, as fully as you could do in person, including verifying the content and authenticity of any funds transfer instruction for the purposes of security procedures applicable to Accounts. Once the Bank and/or our Service Provider has actual knowledge that you wish to cease using the Service and has a reasonable opportunity to act on such knowledge, this limited power of attorney shall be automatically revoked; provided, however, that any act done by the Bank and/or our Service Provider in good faith before it has actual knowledge of termination by you and has a reasonable opportunity to act on such knowledge shall be deemed to be authorized by you.

You understand and agree that at all times your relationship with each Account provider is independent of the Bank and your use of the Service. We will not be responsible for any acts or omissions by any other financial institution or any other provider of any Account, including without limitation any modification, interruption or discontinuance of any Account by such financial institution or provider.

**YOU ACKNOWLEDGE AND AGREE THAT WHEN THE BANK AND OUR SERVICE PROVIDER IS EFFECTING A FUNDS TRANSFER FROM OR TO ANY OF YOUR OR A RECIPIENT'S ACCOUNTS, THE BANK AND OUR SERVICE PROVIDER IS ACTING AS YOUR AGENT, AND NOT AS THE AGENT OR ON BEHALF OF ANY THIRD PARTY. YOU AGREE THAT THE BANK AND ITS SERVICE PROVIDER SHALL BE ENTITLED TO RELY ON THE FOREGOING AUTHORIZATION, AGENCY AND POWER OF ATTORNEY GRANTED BY YOU.**

YOU AGREE THAT WE SHALL NOT BE LIABLE FOR ANY COSTS, FEES, LOSSES OR DAMAGES OF ANY KIND INCURRED AS A RESULT OF: (1) OUR ACCESS TO THE ACCOUNTS; (2) OUR DEBIT AND/OR CREDIT OR INABILITY TO DEBIT AND/OR

CREDIT THE ACCOUNTS IN ACCORDANCE WITH YOUR FUNDS TRANSFER INSTRUCTIONS; (3) ANY INACCURACY, INCOMPLETENESS OR MISINFORMATION CONTAINED IN THE INFORMATION RETRIEVED FROM THE ACCOUNTS; (4) ANY CHARGES IMPOSED BY ANY PROVIDER OF ACCOUNTS AND (5) ANY FUNDS TRANSFER LIMITATIONS SET BY THE BANK OR OTHER FINANCIAL INSTITUTIONS OR OTHER PROVIDERS OF THE ACCOUNTS.

You acknowledge that not all types of accounts are eligible for the Service. It is your responsibility to check with the Bank and your other financial institutions regarding which accounts are eligible and regarding restrictions on transfers among your retirement accounts (401k, IRA, etc.), trusts, loans, custodial, business, corporate and other account types. We are not responsible for any costs or losses that you may incur from transfers that are not permitted under such restrictions by the provider of your Account or restrictions imposed by applicable law.

#### 6) BUSINESS DAYS

The Service will process requests for transfers on business days. As used in this Agreement the term "Business Days" means Monday through Friday, but excludes Federal holidays and days on which the Bank is closed.

#### 7) ELECTRONIC COMMUNICATIONS

A. General Consent; Categories of Records. The Service is an electronic, Internet based-service. Therefore, you understand and agree that this Agreement will be entered into electronically and that the following categories of information ("Communications") may be provided by electronic means:

- This Agreement and any amendments, modifications or supplements to it.
- Your records of funds transfers and other transactions through the Service, including without limitation confirmations of individual transactions.
- Any initial, periodic or other disclosures or notices provided in connection with the Service, including without limitation those required by federal or state law.
- Any customer service communications, including without limitation communications with respect to claims of error or unauthorized use of the Service.
- Any other communication related to the Service.

Although the Bank reserves the right to provide Communications in paper format at any time, you agree that we are under no obligation to do so. All Communications in either electronic or paper format will be considered to be "in writing." You acknowledge that you should print a paper copy of any electronic

Communication that is important to you and retain the copy for your records. If you do not agree to receive this Agreement or the Communications electronically, you may not use the Service.

B. How to Withdraw Consent. If you have registered for the Service and you wish to withdraw your consent to have Communications provided in electronic form, you must cancel any pending transfer requests and stop using the Service. There are no fees to cancel a pending transfer request. The Service may not be able to cancel transfer requests after they have been submitted to the Service. You should submit cancellation requests as soon as possible. You agree that we do not guarantee that we will be able to cancel pending transfers and that we are not liable to you or any third party if the Service is unable to cancel a pending transfer after the transfer request has been submitted to the Service.

C. How to Update Your Records. You agree to promptly update your registration records if your e-mail address or other information changes. You may update such records by using the Profile page of the Service website.

D. Delivery of Electronic Communications. Communications may be posted on the pages of the Service website or other website disclosed to you and/or delivered to the e-mail address you provide. Any electronic Communication sent by e-mail will be deemed to have been received by you when the Bank or our Service Provider sends it to you, whether or not you received the e-mail. An electronic Communication by e-mail is considered to be sent at the time that it is directed by the Bank's or Service Provider's e-mail server to the appropriate e-mail address. If the Communication is posted on the Service, then it will be deemed to have been received by you on the date it is posted, whether or not you retrieve the Communication. An electronic Communication made by posting to the web pages of the Service is considered to be received at the time it is publicly available. You agree that these are reasonable procedures for sending and receiving electronic Communications.

E. Hardware and Software Requirements. In order to access and retain Communications, you must have:

- An Internet browser that supports 128-bit encryption, such as Netscape Navigator version 4.7 or above or Internet Explorer version 5.0 or above.
- An e-mail account and e-mail software capable of reading and responding to your e-mail.
- A personal computer, operating system and telecommunications connections to the Internet capable of supporting the foregoing.
- Sufficient electronic storage capacity on your computer's hard drive or other data storage unit.
- A printer that is capable of printing from your browser and e-mail software

## 8) PRIVACY POLICY AND CONFIDENTIALITY

We regard your privacy and security with the utmost importance, and we are committed to safeguarding any information that you share with us. In order to provide the Service, we must obtain from you certain personal information about you, your Accounts, and your transactions ("User

Information"). You represent that you have the right to provide such User Information and that you give us the right to use the User Information in accordance with our Privacy Policy.

All of your personal and financial information will be placed on a secure portion of our website. We do not use any persistent "cookies" on the browser to store any personal information. We have multiple levels of security that have been designed especially for us. You can see a full description of our security policy by clicking on "Customer Center -- Security" in our Online Banking website. You can see a full description of our Privacy Policy by clicking on "Privacy Policy" in our Electronic Banking website.

#### 9) PASSWORD

To enable you, and only you, to use the Service, you will be asked to choose a password when you register and are accepted as a customer of the Service. This password is stored in encrypted form by us. You are responsible for maintaining the confidentiality of your user ID and password. No one at the Bank has access to your passwords or user IDs. Except as otherwise provided in this Agreement, you are responsible for any and all uses of the Service with your password whether or not you actually or expressly authorized such uses. Therefore, you agree that **YOU SHALL NOT SHARE YOUR ACCOUNT NUMBER OR PASSWORD WITH ANYONE FOR ANY REASON.**

#### 10) IN THE EVENT OF UNAUTHORIZED TRANSFER

If you believe your password has been lost or stolen, or that someone has transferred or may transfer money from your Account without your permission, contact us **AT ONCE** by e-mailing us at [ebanking@mybankwell.com](mailto:ebanking@mybankwell.com), or writing to Bankwell Electronic Banking Department, 208 Elm Street New Canaan, CT 06840, or telephoning us at (877) 715-3265.

#### 11) CONSUMER LIABILITY

You agree to notify us **AT ONCE** if you believe your password has been lost or stolen. Telephoning us promptly is the best way to protect yourself from possible losses. You may notify us by e-mailing us at [ebanking@mybankwell.com](mailto:ebanking@mybankwell.com), or writing to Bankwell Electronic Banking Department, 208 Elm Street, New Canaan, CT 06840, or telephoning us at (877) 715-3265.

If you never tell us, you could lose all of the money in your account (plus your maximum overdraft line of credit). However, if you tell us within two (2) Business Days, you can lose no more than \$50 if someone used your password without your permission.

If you do **NOT** tell us within two (2) Business Days after you learn of the loss or theft of your password, and we can prove we could have stopped someone from using your password without your permission if you had told us, you could lose as much as \$500.

You can see a complete statement of all your funds transfers affected or pending at any time by clicking on the History tab of the Service website. If your statement shows transfers that you did not make, notify us **AT ONCE**. If you do not tell us within 60 days after the transfer was posted to your statement, you may not get back any money you lost after the 60 days, if we can prove that we could have stopped

someone from taking the money if you had told us in time. If a good reason (such as a long trip or a hospital stay) kept you from telling us, we will extend the time periods.

## 12) TRANSFER TYPES AND LIMITATIONS

### A. Types of Transfers

**Funds Transfer.** You may use the Funds Transfer service to transfer funds between any two of your Accounts about which you have provided us the necessary information. You may schedule transfers to occur one time, for a future date, or on a specified recurring basis.

**Popmoney.** You may use the Popmoney service to transfer funds from one of your Accounts to an Account of another person ("Recipient"). You may send funds to a Recipient by using the Recipient's mobile telephone number, or their email address, or you may send the funds directly to their bank Account by entering the required bank routing and Account number information. If you have requested a Popmoney funds transfer to a Recipient, you must provide us with a true, correct, current e-mail address for such Recipient. We will contact the Recipient and ask the Recipient to provide us with certain information, such as the Account number and financial institution that they wish to transfer the funds to. If the Recipient fails to reply to our e-mail or fails to follow the instructions provided by us, we will notify you and credit your Account for the amount of the transfer.

You cannot use Popmoney to transfer money from a Recipient's Account to your own Account.

**Additional services.** We may from time to time make available additional or new features to the Service, including but not limited to, a next day service and a higher limit service. You will be approved or declined for any such additional service at our sole discretion, and additional terms and conditions may apply.

### B. Frequency Of Transfers

We do not limit the number of funds transfers you may make; however, you may not make funds transfers in excess of the number of funds transfers allowed by the rules governing the applicable Accounts. We may from time to time for security and risk management reasons modify the limit, the frequency and the dollar amount of transfers you can make using our Service.

### C. Dollar Amount of Transfers

You may not make funds transfers in excess of limits described on the Service web page. We reserve the right to change from time to time the dollar amount of funds transfers you are permitted to make using our Service. You must have sufficient funds to effect any funds transfers from your Accounts. Without limiting the foregoing, in the event that your use of the Service has been suspended and reinstated as provided herein (see "Suspension and Reinstatement of the Service" below), you understand and agree that your use of the Service thereafter may be subject to lower dollar amount limitations than would otherwise be permitted by us.

#### D. Transfers Subject to the Rules of the Accounts

All funds transfers are also subject to the rules, regulations, agreements and disclosures governing the relevant Accounts. You agree not to affect any funds transfers from or to an Account(s) that are not allowed under the rules or regulations applicable to such Account(s) including, without limitation, rules or regulations designed to prevent the transfer of funds in violation of Bank Secrecy Act and/or OFAC regulations. We may at any time decline to effect any funds transfer that we believe may violate applicable law or the rules and regulations governing the relevant Accounts.

The number of transfers from a savings account is limited to six (6) transfers from your account each four (4) week or similar period, if by pre-authorized or automatic transfer, or telephone (including data transmission) agreement, order or instruction or by check, draft, debit card or similar order (including POS transactions, made by the depositor and payable to third parties). Transfers and withdrawals made in person, by messenger, by mail or at an ATM are unlimited.

With respect to transferring funds from an account on which we have placed a hold on all or part of the account balance, or as to which some or all of the balance is not otherwise available for withdrawal, you cannot transfer the portion of the funds held or otherwise unavailable until the hold expires and the funds become available for withdrawal.

#### E. Rejection of Transfers

We reserve the right to refuse to: (1) effect any funds transfer; (2) submit funds transfer instructions or orders; or (3) to carry out change or cancellation requests. Without limiting the foregoing, we may at any time refuse to effect any transfers that we believe may violate applicable law, or where there are not sufficient funds in your Account to effect any requested transfer.

#### F. Your Authorizations

You authorize us to select any means to execute your funds transfer instructions. You understand that to effect your funds transfer instructions we utilize the Automated Clearing House (ACH). In accordance with applicable ACH Rules, we debit one of your Accounts and credit another of your Accounts. Once your Account has been debited, we credit our Service Provider's transfer account at the Service Provider's clearing bank. After our Service Provider and/or its clearing bank are reasonably certain that the debit will not be returned, our Service Provider will credit your destination Account. The sole purpose for our Service Provider's transfer account is to complete your funds transfer requests and to perform services within the scope of this Agreement. The Service Provider earns no interest on the funds in the transfer account. If the debit side fails or the debited funds are returned for any reason and the credit side has been released and cannot be collected, you authorize our Service Provider to collect the amount of the debit from the Account to which the funds transfer was credited. We reserve the right to resubmit a debit, or a portion of the debit, in the event of an insufficient or uncollected funds return and if we cannot collect the amount credited. To effect this collection, you authorize us to debit the credited Account or the debited Account in either the same dollar amount as the original funds



transfer or a portion of the debit. You are responsible for any and all fees associated with such collection that may be imposed by the financial institution holding the Account.

You understand and agree that we may from time to time impose additional fees or charges in connection with your funds transfer transactions. We will notify you of such fees or charges in advance of the transaction. If you choose to proceed with the transaction, you authorize us to debit your Account in the amount indicated in our notification.

In the event that a debit to any of your Accounts, or any portion of any such debit, has failed and the credit side of such transaction has been released and cannot be collected, and we are unable to debit either the debited or the credited Account as set forth above, we reserve the right, and you hereby authorize us, to debit any of your other Accounts to the extent necessary to offset any resulting deficiency. We will not notify you in such event, other than by posting any such transfer or transfers to the applicable Account(s) in accordance with this Agreement (see "Documentation" below).

#### 13) SUSPENSION AND REINSTATEMENT OF THE SERVICE

In the event that we at any time incur a problem with your use of the Service, including without limitation a failure in attempting to debit any of your Accounts or to collect with respect to any of your funds transfers as described above, and without limiting any other right or remedy that we may have under this Agreement or otherwise, we reserve the right to suspend your right to use the Service, immediately and without prior notice to you. You understand and agree that such action is reasonable for us to take in order to protect us from loss. In the event of such suspension, you may request reinstatement of your service by emailing us at [ebanking@mybankwell.com](mailto:ebanking@mybankwell.com), or by writing to Bankwell Electronic Banking Department, 208 Elm Street, New Canaan, CT 06840, or by telephoning us at (877) 715-3265. We reserve the right in our sole discretion to grant or deny reinstatement of your use of the Service. In the event we agree to reinstate you, we reserve the right to, and ordinarily will, initially reinstate your Service subject to lower per-transaction and monthly dollar limits and/or with other restrictions than otherwise might be available to you. Based upon your subsequent usage of the Service, the Bank in its sole discretion may thereafter restore your ability to effect transfers subject to such higher limits as may then be in effect (see "Dollar Amount of Transfers" above).

#### 14) DOCUMENTATION

You may access a statement of all funds transfers effected or pending at any time by clicking on the History tab located within the Funds Transfer service web page or the Activity tab within the Popmoney service web page. If a transfer cannot be completed, the Bank and/or our Service Provider, upon learning that the funds transfer has failed, will make a reasonable effort to complete the transfer again. If the funds transfer fails a second time, we will notify you to contact your financial institution or other provider of the relevant Account for further information about the failure.

#### 15) YOUR RESPONSIBILITY FOR ERRORS

You understand that we must rely on the information provided by you, and you authorize us to act on any instruction that has been or reasonably appears to have been sent by you to submit funds transfer instructions on your behalf. You understand that financial institutions receiving the funds transfer instructions may rely on such information. We are not obligated to take any further steps to confirm or authenticate such instructions and will act on them without obtaining further confirmation. You understand that if you provide us with incorrect information or if there is any error in your instruction we will make all reasonable efforts to reverse or delete such instructions, but you accept full responsibility for losses resulting from any of your errors, duplication, ambiguities or fraud in the information that you provide. You agree not to impersonate any person or use a name that you are not authorized to use. If any information you provide is untrue, inaccurate, not current or incomplete, without limiting other remedies, the

Bank reserves the right to recover from you any costs or losses incurred as a direct or indirect result of the inaccurate or incomplete information.

#### 16) ERROR REPORTING AND CLAIMS

In case of errors or questions about your funds transfers, contact us as soon as you can, if you think your statement is wrong or if you need more information about a transfer listed on the statement. Contact us by emailing us at [ebanking@mybankwell.com](mailto:ebanking@mybankwell.com), or by writing to Bankwell Electronic Banking Department, 208 Elm Street, New Canaan, CT 06840, or by telephoning us at (877) 715-3265. You can see a complete statement of all your funds transfers effected or pending at any time by clicking on the History tab on the Service website. We must hear from you within 60 days after we FIRST posted the transfer to your statement.

(1) Tell us your name, and the account number of the Account to which the error relates. (2) Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is in error or why you need more information. (3) Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send us your complaint or question in writing within 10 Business Days. We will determine whether we committed an error within 10 Business Days (20 Business Days for new Bank accounts) after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days (90 days for new Bank Accounts) to investigate your complaint or question. If we decide to do this, we will credit/debit the applicable Accounts within 10 Business Days (20 Business Days for new Bank accounts) for the amount you believe is in error, so that you or your intended Recipient will have use of the money during the time it takes us to complete our investigation. If we ask you to put your question or complaint in writing and we do not receive it within 10 Business Days, we may not credit/debit the applicable Accounts.

We will tell you the results within three (3) Business Days after completing our investigation. If we decide that we did not make an error, we will send you a written explanation. You may ask for copies of the documents we used in our investigation.

We are not responsible for errors, delays and other problems caused by or resulting from the action or inaction of the financial institution that holds the Account or the account of your Recipient. Although we will try to assist you in resolving any such problems, you understand that any such errors, delays or other problems are the responsibility of the relevant financial institution or the Recipient. Any rights you may have against a financial institution for such errors, delays or other problems are subject to the terms of the agreements you have with such financial institution, including any time limits during which complaints must be made.

#### 17) DISCLOSURE OF ACCOUNT INFORMATION TO THIRD PARTIES

It is our general policy to treat your account information as confidential. However, we will disclose information to third parties about your account or the transactions you make:

- (a) Where it is necessary for completing transactions;
- (b) Where it is necessary for activating additional services;
- (c) In order to verify the existence and condition of your account to a third party, such as a credit bureau or Payee;
- (d) To a consumer reporting agency, as allowed by law;
- (e) In order to comply with a governmental agency or court orders;
- (f) If you give us your written permission; or,
- (g) As stated in our privacy policy, which you may obtain from our website.

#### 18) CANCELLING OR STOPPING PAYMENT REQUESTS

**Non-Recurring Payments:** The Service's ability to cancel individual, non-recurring payment requests will depend on the payment status. Individual payments can only be cancelled when they are in a "pending" status, which can be seen displayed in the Activity section of the Bank's online banking service. Cancellations can only be processed by you through our online banking service. If the Activity listing indicates that a payment has been "processed," that payment cannot be cancelled. If you need assistance with this process please contact Customer Service at the telephone number or address provided in Section 14.

**Recurring Payments:** If you have told us in advance to make regular payments out of your account, you can stop any of these payments. Here's how: Call us at (877) 715-3265 or send us a message through the Bank's online banking service, in time for us to receive your request three (3) business days or more before the payment is scheduled to be made. If you call, we may also require you to put your request in writing and get it to us within fourteen (14) days after you call.

#### 19) PROPRIETARY RIGHTS

You acknowledge and agree that the Bank and/or our Service Provider owns all rights in and to the Service. You are permitted to use the Service only as expressly authorized by this Agreement. You may not copy, reproduce, distribute, or create derivative works, reverse engineer or reverse compile the Service or any of the Bank's and/or our Service Provider's services or technology.

#### 20) NO UNLAWFUL OR PROHIBITED USE

As a condition of using the Service, you represent and warrant to us that: (a) you will not use the Service for any purpose that is unlawful or is not permitted, expressly or implicitly, by the terms of this Agreement, or by your Account Disclosures, or by any applicable law or regulation; (b) you will not use the Service in any manner that could damage, disable, overburden, or impair the Service or interfere with any other party's use and enjoyment of the Service; and (c) you will not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through the Service. You agree that these warranties and representations will remain in full force and effect even if this Agreement terminates for any reason.

## 21) SERVICE CHANGES AND DISCONTINUATION

We may modify or discontinue the Service or your Account(s) with us, with or without notice, without liability to you, any other user or any third party, to the extent permitted by our Account Disclosures, this Agreement, and applicable law. We reserve the right, subject to applicable law, to terminate your right to use the Service at any time and for any reason, including without limitation if we, in our sole judgment, believe you have engaged in conduct or activities that violate any of the Terms or the rights of the Bank and/or our Service Provider, or if you provide us with false or misleading information or interfere with other users or the administration of the Service. We reserve the right to charge a fee(s) for the use of the Service and any additional services or features that we may introduce (See "Service Fees" below).

You may terminate your Account with the Bank at any time by contacting us. Once your Account with the Bank has terminated for any reason, you will have no further right or access to use the Service for that Account.

## 22) USE OF SMS MESSAGING FOR POPMONEY

Users of the Popmoney service may receive SMS (short message service) text messages to their mobile telephones relating to their payments, such as notices of payment, alerts for validation and transfer receipt notifications. Your e-mail address and mobile phone number are required as part of the sign up process for the Popmoney service. We will verify your access to the mobile phone number by sending you an SMS message with a verification code that you will need to enter in order to complete the sign up process. You may receive other SMS messages related to your Popmoney service transactions from time to time.

Mobile telephone carrier charges may apply to you and/or the Recipient for text messaging services. You are responsible for your mobile telephone carrier's fees and charges, including without limitation text messaging fees.

If you have any questions about the Popmoney service, you can contact us using the instructions on our Service website, or from your mobile phone by sending a text message with the word "HELP" to this number: POPMON.

You can stop receiving Popmoney SMS messages by sending the text message "STOP" to the following telephone number: POPMON.

### 23) SERVICE FEES

There are no Bank fees to use the Service. If in the future the Bank decides to charge fees for the Service, we will provide you with at least 21 days' advance written notice of any such change. Notice may be provided by mail to your address of record, via email or through the Service, if applicable (See "General Provisions --Amendments" below). Fees separately disclosed in the Bank's Fee Schedule and other Account Disclosures, as amended from time to time, may apply to specific services and Accounts. Other financial institutions may impose their own fees and charges for transfers that you make through the Service, and you are responsible for any and all of such fees and charges. You also understand and agree that you are responsible for any telephone, including mobile telephone, and Internet service provider charges and any and all other fees and charges that you may incur by accessing and using the Service.

### 24) LINKS TO THIRD PARTY SITES

Our Service website may contain links to other third party websites ("Linked Sites"). Such links are provided solely as a convenience to you. The Bank and the Service Provider do not screen, approve, review or otherwise endorse any content or information contained in any Linked Sites. You acknowledge and agree that the Bank and the Service Provider are not responsible for the contents of any Linked Sites, including the accuracy or availability of information provided by Linked Sites, and make no representations or warranties regarding the Linked Sites or your use of them.

### 25) SECURITY PROCEDURES

You understand that the financial institution at which an Account is maintained may contact us to verify the content and authority of funds transfer instructions and any changes to those instructions. You understand that, as your agent, we may provide to such financial institution such information as may be required to verify the instructions in accordance with the security procedures established under the rules governing such Account.

### 26) DEVIATING FROM SECURITY PROCEDURES

You agree to allow us to authorize any financial institution at which you have an Account to accept funds and transfer instructions in accordance with any authorization procedures as may be agreed from time to time between you and such financial institution, or between us, on your behalf, and such financial institution, without verifying the instructions under the established security procedures, regardless of whether such security procedures were agreed by you directly or by us on your behalf. In addition you agree that we may authorize such financial institutions to charge and debit your Accounts based solely on such instructions.

### 27) ACCOUNT NUMBER POLICY

You agree that if funds transfer instructions identify a bank or beneficiary by name and account number, the relevant financial institution may execute those instructions by reference to the account number only, even if the number does not correspond to the name. You acknowledge that such financial institutions may not investigate discrepancies between names and account numbers. In addition, you agree that we have no responsibility to investigate discrepancies between names and account numbers.

#### 28) JOINT ACCOUNT HOLDER

By using the Service, you confirm that if any of your Accounts is a joint or other multiple party Account, your joint or other account holder of the Account has consented for you to use the Account for the Service.

#### 29) MEANS OF TRANSFER

You authorize us to select any means we deem suitable to provide your funds transfer instructions to the applicable financial institution. These choices include banking channels; electronic means, funds transfer systems, mail, courier, or telecommunications services, intermediary banks and other organizations. You agree to be bound by the rules and regulations that govern the applicable funds transfer systems, including without limitation automated clearing house (ACH) rules as published by the National Automated Clearinghouse Association (NACHA). We shall make all reasonable efforts to ensure that your transfer requests are processed on time; however, we reserve the right to hold funds beyond the standard period of three (3) Business Days.

#### 30) OUR LIABILITY

If we do not provide a funds transfer instruction on time, if we cause an incorrect amount to be removed from an Account or if we cause funds from an Account to be transferred to any account other than the Account or Recipient's account specified in the applicable funds transfer instruction, we shall be responsible for returning the improperly transferred funds and/or for directing any misdirected funds to the proper Account or intended Recipient's account. The Bank is not responsible or liable if your or the Recipient's financial institution's system fails and we are unable to complete the transfer. Except as otherwise required by law, we shall in no other event be liable for any losses and damages other than those arising from gross negligence or willful misconduct on our part or if we breach a representation or warranty of the Bank under this Agreement.

You agree that your transfer instructions constitute authorization for us to complete the transfer. You represent and warrant to us that you have enough money in the applicable Accounts to make any funds transfer you request that we make on your behalf through the Service. You understand and agree that we are not liable under any circumstances for any losses or damages if, through no fault of ours, you do not have enough money to make the funds transfer and the funds transfer is not completed or is later reversed or if your financial institution does not permit the transfer.

You also understand and agree that we are not responsible for any losses or damages if circumstances beyond our control (such as fire or flood) prevent us from making a funds transfer or if our website was not working properly and you knew about the malfunction when you started the funds transfer.

### 31) LIMITATION OF WARRANTY AND LIABILITY

YOU UNDERSTAND AND AGREE THAT OUR SERVICE IS PROVIDED "AS-IS." EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT OR AS REQUIRED BY LAW, WE ASSUME NO RESPONSIBILITY FOR THE TIMELINESS, DELETION, MIS-DELIVERY OR FAILURE TO STORE ANY USER COMMUNICATIONS OR PERSONALIZATION SETTINGS. YOU UNDERSTAND AND EXPRESSLY AGREE THAT USE OF THE ONLINE MONEY MOVEMENT SERVICE IS AT YOUR SOLE RISK, THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE ONLINE MONEY MOVEMENT SERVICE IS DOWNLOADED OR OBTAINED AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OR THE OBTAINING OF SUCH MATERIAL AND/OR DATA.

EXCEPT AS EXPRESSLY SET FORTH ON OUR WEBSITE OR IN THIS AGREEMENT, WE DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY OR THIRD PARTY RIGHTS, AND WE MAKE NO WARRANTY OR REPRESENTATION REGARDING THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE, THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE SERVICE, THE ACCURACY OF ANY INFORMATION RETRIEVED BY US FROM THE ACCOUNTS OR THAT THE SERVICE WILL MEET ANY USER'S REQUIREMENTS, BE UNINTERRUPTED, TIMELY, SECURE OR ERROR FREE.

EXCEPT AS DESCRIBED IN THIS AGREEMENT, WE WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND RESULTING FROM THE USE OF OR THE INABILITY TO USE THE SERVICE, ANY INACCURACY OF ANY INFORMATION OR AMOUNT RETRIEVED BY US FROM THE ACCOUNTS, ANY BREACH OF SECURITY CAUSED BY A THIRD PARTY, ANY TRANSACTIONS ENTERED INTO BASED ON THE SERVICE, ANY LOSS OF, UNAUTHORIZED ACCESS TO OR ALTERATION OF A USER'S TRANSMISSIONS OR DATA OR FOR THE COST OF

PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, USE, DATA OR OTHER INTANGIBLES, EVEN IF WE HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

### 32) INDEMNIFICATION

You agree to indemnify, defend and hold harmless the Bank, its Service Provider, affiliates, officers, directors, employees, consultants, other third-party service providers and agents from any and all third party claims, liability, damages and/or costs (including, but not limited to, attorneys' fees) arising from your use of the Service, our reliance on the information, instructions, license and/or authorizations provided by you under or pursuant to this Agreement, your violation of the Terms or your infringement,

or infringement by any other user of your Bank Account(s), of any intellectual property or other right of any person or entity.

The Bank and the Service Provider reserve the right to decline to complete any transfer, even after you have agreed to all of the Terms, if the Bank and/or the Service Provider has reason to believe that completing the transfer would result in a violation of law or expose us to liability or risk of loss. Without limiting the foregoing, the Bank and/or the Service Provider will reject any transfer if you do not enter the code correctly after three (3) attempts. If the transfer is rejected for any reason, the funds will be returned to the Transferor.

### 33) GENERAL PROVISIONS

#### A. Service Provider Disclaimer

You understand and agree that our Service Provider is not a bank, a broker-dealer firm, or any other kind of financial institution.

#### B. Representations and Warranties

In addition to your other representations and warranties in this Agreement, you represent and warrant that: (a) you are who you claim to be; (b) you are the rightful owner of all Content and the Accounts linked for the purposes of the Service; and (c) you are rightfully authorizing us to access the Accounts.

#### C. Termination

If at any time you wish to discontinue your use of the Service, you can cancel the Service by emailing us at [ebanking@mybankwell.com](mailto:ebanking@mybankwell.com), or by writing to Bankwell Electronic Banking Department, 208 Elm Street, New Canaan, CT 06840, or by telephoning us at (877) 715-3265. Once your Account with us has terminated for any reason, you will have no further right or access to use the Service for that Account. We may terminate your access to and use of the Service at any time for any reason without notice to you, to the extent permitted by law.

You agree that our rights and remedies arising out of any breach of your representations and warranties in this Agreement, the limitations on our liability and our rights to indemnification under this Agreement are continuing and shall survive the termination of this Agreement, notwithstanding the lack of any specific reference to such survivability in these Terms.

#### D. No Waiver

Our failure to enforce the strict performance of any provision of this Agreement will not constitute a waiver of our right to subsequently enforce such provision or any other provisions of this Agreement. The Bank will not be deemed to have waived any of its rights or powers under this Agreement unless such waiver is in writing and such writing is signed by an authorized representative of the Bank. No delay, extension of time, compromise, or other indulgence that may occur or be granted from time to time by the Bank under this Agreement will impair our rights or powers under this Agreement.



#### E. Amendment

We reserve the right to change the fees, charges or other Terms from time to time without notice, except as may be required by law. However, we will mail or deliver a written notice to you at least twenty-one (21) days in advance of the effective date of any additional or increased fees or charges, increased liabilities for you, fewer types of available electronic fund transfers, or stricter limits on the type, amount or frequency of transactions. In addition, if an immediate change is necessary to maintain the security of the system and it can be disclosed without jeopardizing the security of the system, we will provide you with written notice within thirty (30) days after such change. In most cases you will receive the notice online through the Service; however, the Bank reserves the right to notify you by e-mail or by U.S. Postal Service mail, in its discretion.

You may decline a change by notifying us prior to the change's effective date to discontinue the Service. If you do not accept and agree to the changes to the Terms, you will not be entitled to use the Service.

However, if you fail to terminate your Service and you use it on or after the effective date of the change, you will be deemed to have accepted and agreed to the changes, and they and the Agreement, as amended, will become legally binding upon you.

#### F. Entire Agreement

The most current version of this Agreement as it appears on our website, including any amendments that we may make from time to time, constitutes the entire agreement between us, and supersedes and replaces all other agreements or understandings, whether written or oral, regarding the Service.

#### G. Notices

All notices to you shall be in writing and shall be made either via e-mail, U.S. Postal Service mail or messages delivered through the Service, at our discretion. Any written notice that we give to you will be considered delivered when it is deposited in the U. S. mail or sent to you to the e-mail address in our records or posted for you online through the Service. If your Account is a joint or multiple party Account, notice from us to any one of you is notice to all of you.

Unless otherwise provided in this Agreement, any notice from you must be in writing. Any written notice that you give us will be effective when it is actually received by us, provided we have reasonable opportunity to act on it.

See the section of this Agreement above entitled "Delivery of Electronic Communications" for further provisions regarding electronic notices.

#### H. Assignment

This Agreement is personal to you and you may not assign any of your rights, duties and obligations under this Agreement to any other party. The Bank may assign this Agreement to any future, directly or indirectly, affiliated company, or to any purchaser or merger partner of Bank. The Bank may also assign

or delegate certain of its rights and responsibilities under this Agreement to independent contractors or other third parties.

#### I. Disputes

If either of us has any dispute or disagreement with the other regarding this Agreement that we cannot resolve amicably, both parties agree that the sole and exclusive remedy shall be binding arbitration in accordance with the then current rules and procedures of the American Arbitration Association.

#### J. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Connecticut, without giving effect to its conflict of laws provisions or your actual state or country of residence.

#### K. Severability

If any provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of such provision in other jurisdictions, and of the remaining provisions of this Agreement in all jurisdictions, will not in any way be affected or impaired, and the remainder of the Terms will continue in full force and effect.

#### L. Effective Date

This Agreement shall take effect immediately upon the acceptance of your enrollment in the Service by us.