

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

LISA CARTER, individually, and on behalf
of all others similarly situated,

Plaintiff,

v.

THE CITY NATIONAL BANK AND
TRUST COMPANY OF LAWTON,
OKLAHOMA, and DOES 1 through 5,
inclusive,

Defendants.

Case No. CIV-21-29-PRW

CLASS ACTION - COMPLAINT

DEMAND FOR JURY TRIAL

I INTRODUCTION

1. Lisa Carter (“Plaintiff”) brings this lawsuit against The City National Bank and Trust Company of Lawton, Oklahoma (“City National” or “Defendant”) on behalf of City National’s customers, on the basis that City National has violated and continues to violate Federal Reserve Regulation E, 12 C.F.R. § 1005.1, et seq. (“Reg E” or “Regulation E”). Regulation E requires that before financial institutions may charge overdraft fees on one-time debit card and ATM transactions, they must (1) provide a complete, accurate, clear, and easily understandable disclosure document describing their overdraft services (opt-in disclosure agreement); (2) provide that disclosure as a stand-alone document not intertwined with other disclosures; and (3) obtain verifiable affirmative consent of a customer’s agreement to opt-in to the financial institution’s overdraft program. Moreover, Regulation E prohibits financial institutions from actively encouraging customers to opt into their overdraft programs, such as by linking Regulation E opt-in to other account perks (or detriments if a customer chooses not to opt-in).

2. Specifically, in order to comply with Regulation E, City National must provide customers with a Regulation E opt-in disclosure agreement describing its overdraft services. But City National does not provide its customers, including Plaintiff, with a Regulation E opt-in disclosure agreement containing accurate language describing the circumstances in which City National intends to charge them overdraft fees. Specifically, on information and belief, it does not use a stand-alone opt-in disclosure agreement that accurately and in an easily understandable manner describes City National’s overdraft services including, but not limited to, failing to state or clearly describe that an overdraft occurs when the “available balance” is below zero, when that is

its practice. Further, City National has a policy of charging its customers a fee for declined debit card transactions (an almost unheard of practice in the financial industry). This is because Regulation E prohibits the practice through its proscription of offering encouragements to sign up for Regulation E overdraft coverage.

3. Because Regulation E does not permit financial institutions to charge overdraft fees until they obtain affirmative consent from consumers after making an accurate disclosure of their overdraft practices in a stand-alone opt-in disclosure agreement, City National's assessment of all overdraft fees against customers for one-time debit card and ATM transactions has been, and continues to be, illegal. Further, on information and belief, City National's continued use of a non-conforming disclosure agreement to "opt-in" new customers to its overdraft service is invalid under Regulation E.

4. Regulation E itself provides a cause of action for failing to abide by its requirements. Plaintiff thus seeks statutory damages within the statute of limitations period. Plaintiff also seeks to enjoin City National from continuing to obtain new customers' "consent" to assess overdraft fees by using an opt-in disclosure agreement that violates Regulation E, and from continuing to assess any further overdraft fees on Regulation E transactions until it obtains the consent of current customers using a Regulation E-conforming opt-in disclosure agreement.

5. In addition, City National utilizes other accounting gimmicks to further increase the fees it assesses to customers. City National contracts to charge its customers only a single non-sufficient funds ("NSF") fee for a returned, unpaid item when, instead, it charges multiple NSF fees for a single returned, unpaid item when the item is reprocessed by a merchant through no action of an accountholder. City National's

practice of charging multiple NSF fees on the same item violates its contracts with its customers. Moreover, City National engages in an egregious practice where it withdraws from an account the full amount of debit items that it labels as overdrafts even when it will return the debit item as unpaid and no money will actually ever be debited from the account for that item. Instead, after debiting the money from the account one day under the guise of it being paid as an “overdraft,” City National returns the item unpaid the following day and credits back the premature debit to the account. But by debiting the accountholder’s money in the interim even when the money is still in the account, it lowers the account balance making it more likely that other subsequently processed items will be assessed overdraft or NSF fees. City National does this even though it fully intends to return the items unpaid, which never would have debited the money from the account. This not only deprives the customer of the amount of money in the account, it causes confusion as to the customer’s balance in the account. On information and belief, City National does not adequately disclose this practice to its customers in the Reg E disclosure, and the practice violates its contracts with its customers. This action seeks to remedy these unlawful practices and obtain associated damages.

II NATURE OF THE ACTION

6. All allegations herein are based upon information and belief except those allegations pertaining to Plaintiff or counsel (unless otherwise stated). Allegations pertaining to Plaintiff or counsel are based upon, *inter alia*, Plaintiff’s or counsel’s personal knowledge, as well as Plaintiff’s or counsel’s own investigation. Furthermore, each allegation alleged herein either has evidentiary support or is likely to have evidentiary support, after a reasonable opportunity for additional investigation or discovery.

7. Plaintiff has brought this class action to assert claims in her own right, and as the class representative of all other persons similarly situated. Regulation E requires City National to obtain informed consent, by way of a written stand-alone document that fully and accurately describes in an easily understandable way its overdraft services, before charging customers an overdraft fee on one-time debit card and ATM transactions. Because of the substantial harm to customers of significant overdraft fees on relatively small debit card and ATM transactions, Regulation E requires financial institutions to put all pertinent overdraft information in one clear and easily understood document. Financial institutions are not permitted to circumvent this requirement by referencing, or relying on, their account agreements, disclosures, or marketing materials. Regulation E expressly requires a financial institution to include all the relevant terms of its overdraft program within the four corners of the document, creating a separate agreement with accountholders regarding overdraft policies. Moreover, financial institutions are not permitted to actively encourage customers to opt-in for Regulation E overdraft coverage.

8. City National does not meet these requirements. On information and belief, it does not provide its customers with a compliant stand-alone Regulation E opt-in disclosure agreement because, *inter alia*, it fails to accurately and in an easily understandable manner describe City National's overdraft services including, but not limited to, failing to state or clearly describe that an overdraft occurs when the "available balance" is below zero. It also threatens additional fees for declined transactions that would not be assessed if opted into overdraft coverage, and fails to adequately describe its practice of debiting accounts for transactions it labels as "overdrafts" only to return them unpaid the next day, which inaccurately reduces the account's balance for the term of the debit.

9. City National's own internal bookkeeping practice is to calculate account holders' account balances for overdraft and NSF purposes using an artificially reduced calculation called the "available balance," which deducts from an account any money City National unilaterally decides should be held for future transactions. When these future holds are accounted for, the calculation can result in a negative "available balance" existing only on paper, even though there is actually money in the account to cover a transaction without a negative account balance at the time of payment and posting. While that practice is unfair on its face, the disclosure of the practice is at issue, not the practice itself.

10. City National's use of the artificially reduced account balance to assess overdraft fees is material. Based on analysis with other financial institutions, it is likely City National assessed overdraft fees on 10-20% more Regulation E overdraft transactions than would otherwise be the case if it used account holders' actual balances to determine if accounts were overdrawn.

11. Plaintiff has been harmed by City National's Regulation E violations. On information and belief, she was opted-in to City's overdraft program using an improper disclosure agreement that inaccurately described City's overdraft practices, and has been assessed overdraft fees on Reg E transactions that were not permitted because City National had earlier obtained Plaintiff's "consent" using that non-compliant agreement. This action seeks statutory damages under Regulation E, restitution, and injunctive relief due to, *inter alia*, City National's policy and practice of obtaining "affirmative consent" using a noncompliant opt-in disclosure agreement, unlawfully assessing and unilaterally collecting overdraft fees as set forth herein.

12. In addition, City National's contracts state that it will only charge customers a single NSF fee on an unpaid, returned item. Yet, City National's practice is to charge multiple NSF fees or an NSF fee followed by an overdraft fee on the same item. Plaintiff has been harmed by this practice because City National charged her multiple fees based on this practice, which further reduced her balance, causing a cascade of additional overdraft transactions that she otherwise would not have been assessed. Further, on numerous occasions, City National has withdrawn items from Plaintiff's account balance calling them "overdrafts," only to re-credit them the following day after returning the items unpaid, effectively reducing her balance in the interim and making it more likely that other items would be considered as overdrafts or non-sufficient funds items. Plaintiff thus seeks monetary damages and other relief as a result of these improper practices.

III PARTIES

13. Plaintiff Lisa Carter is a resident of Lawton, Oklahoma, and a City National customer at all relevant times to the allegations in this Complaint.

14. Based on information and belief, Defendant City National is a bank with its headquarters and principal place of business in Lawton, Oklahoma. City National maintains several branches throughout Oklahoma and at least one branch in Kansas.

15. Without limitation, defendants DOES 1 through 5, include agents, partners, joint ventures, subsidiaries, and/or affiliates of Defendant and, upon information and belief, also own and/or operate Defendant's branch locations. As used herein, where appropriate, the term "Defendant" is also inclusive of Defendants DOES 1 through 5.

16. Plaintiff is unaware of the true names of Defendants DOES 1 through 5. Defendants DOES 1 through 5 are thus sued by fictitious names, and the pleadings will

be amended as necessary to obtain relief against Defendants DOES 1 through 5 when the true names are ascertained, or as permitted by law or the Court.

17. There exists, and at all times herein mentioned existed, a unity of interest and ownership between the named defendants (including DOES) such that any corporate individuality and separateness between the named defendants has ceased, and that the named defendants are *alter egos* in that they effectively operate as a single enterprise, or are mere instrumentalities of one another.

18. At all material times herein, each defendant was the agent, servant, co-conspirator, and/or employer of each of the remaining defendants; acted within the purpose, scope, and course of said agency, service, conspiracy, and/or employment and with the express and/or implied knowledge, permission, and consent of the remaining defendants; and ratified and approved the acts of the other defendants. However, each of these allegations are deemed alternative theories whenever not doing so would result in a contradiction with the other allegations.

19. Whenever reference is made in this Complaint to any act, deed, or conduct of Defendant, the allegation means that Defendant engaged in the act, deed, or conduct by or through one or more of its officers, directors, agents, employees, or representatives who was actively engaged in the management, direction, control, or transaction of Defendant's ordinary business and affairs.

20. As to the conduct alleged herein, each act was authorized, ratified, or directed by Defendant's officers, directors, or managing agents.

IV JURISDICTION AND VENUE

21. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1332 under the Class Action Fairness Act of 2005 because: (i) there are 100 or

more Class Members, (ii) there is an aggregate amount in controversy exceeding \$5,000,000, exclusive of interest and costs, and (iii) there is minimal diversity because at least one plaintiff and one defendant are citizens of different States. This Court also has subject matter jurisdiction over this case under 28 U.S.C. § 1331, 15 U.S.C. § 1693m, and 28 U.S.C. § 1367(a).

22. Venue is proper in this District because City National maintains its headquarters in this District, transacts business in this District, Plaintiff and similarly situated persons entered contracts with City National in this District, and City National executed the unlawful policies and practices which are the subject of this action in this District.

V BACKGROUND

A. Defendant City National

23. City National is a bank headquartered in Lawton, Oklahoma, with branches in more than twenty cities throughout Oklahoma, as well as at least one branch in Wichita, Kansas. As of December 31, 2019, according to its financial filings, it reported having 418 full-time employees. As of its most recent financial filing in 2020, it holds approximately \$402,958,000 in assets.

24. One of the main services Defendant offers is a checking account. A checking account balance can increase or be credited in a variety of ways, including automatic payroll deposits; electronic deposits; incoming transfers; deposits at a branch; and deposits at ATM machines. Debits decreasing the amount in a checking account can be made by using a debit card for purchases of goods and services (point of sale purchases) that can be one-time purchases or recurring automatic purchases; through withdrawal of money at an ATM; or by electronic purchases. Additionally, some of the

other ways to debit the account include writing checks; issuing electronic checks; scheduling Automated Clearing House (ACH) transactions (which can include recurring automatic payments or one-time payments); transferring funds; and other types of transactions that debit from a checking account.

25. In connection with its processing of debit transactions (debit card, ATM, check, ACH, and other similar transactions), Defendant assesses overdraft fees (a fee for paying an overdrawn item) and NSF fees (a fee for a declined, unpaid returned item) to accounts when it claims to have determined that an account has been overdrawn.

26. The underlying principle for charging overdraft fees is that when a financial institution pays a transaction by advancing its own funds to cover the account holder's insufficient funds, it may charge a *contracted* fee, provided that charging the fee is not prohibited by some legal regulation.

27. Financial institutions can also charge a *contracted* NSF fee when a customer's checking account purportedly lacks sufficient funds to cover an item and the financial institution opts to return the transaction item unpaid rather than cover it. Although there is very little, if any, risk to a financial institution when an item is returned unpaid, most institutions (including City National) still charge customers a very expensive fee for this purported "service."

28. The fee Defendant charges here constitutes very expensive credit in the overdraft context that harms the poorest customers and creates substantial profit for Defendant. According to a 2014 Consumer Financial Protection Bureau ("CFPB") study:¹

¹ https://files.consumerfinance.gov/f/201407_cfpb_report_data-point_overdrafts.pdf (last visited Jan. 4, 2021).

- Overdraft and NSF fees constitute the majority of the total checking account fees that customers incur.
- The transactions leading to overdrafts are often quite small. In the case of debit card transactions, the median amount of the transaction that leads to an overdraft fee is \$24.
- The average overdraft fee for bigger banks is \$34 and \$31 for smaller banks and credit unions.

Accordingly, as highlighted in the CFPB Press Release related to this study:

Put in lending terms, if a consumer borrowed \$24 for three days and paid the median overdraft of \$34, **such a loan would carry a 17,000 percent annual percentage rate (APR).**

(Emphasis added.)²

29. Further, the CFPB has noted that, as opposed to overdraft program coverage, financial institutions' return of items as unpaid, which often results in the assessment and collection of NSF fees, confers little, if any, benefit to consumers:

An important consumer outcome of any overdraft program is the percentage of negative transactions that are paid (i.e., result in overdrafts) or returned unpaid (i.e., were NSFs). Paying overdraft transactions may confer some benefit (in exchange for the associated fees and other costs) to consumers by helping them make timely payments and avoid late penalty fees and/or interest charges from a merchant or biller. In contrast, returning an item generally confers little benefit to the consumer (other than perhaps deterring future overdrafting and any subsequent consequences) and can result in an NSF fee as well as additional related fees, such as a returned check fee charged by the institution to whom the check was presented or a late fee charged by the entity to whom payment was due.

² CFPB, CFPB Finds Small Debit Purchases Lead to Expensive Overdraft Charges (7/31/2014) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-small-debit-purchases-lead-to-expensive-overdraft-charges/> (last visited Jan 4, 2021).

(Emphasis added).³

30. Overdraft and NSF fees constitute a primary revenue generator for banks and credit unions. According to one banking industry market research company, Moebs Services, banks and credit unions in 2018 alone generated an estimated \$34.5 billion on overdraft fees.⁴

31. Defendant charges an overdraft/NSF fee of \$25.00 per item. Even if Defendant had been properly charging overdraft fees, the \$25.00 overdraft/NSF fee bears no relation to the financial institution's minute risk of loss or cost for administering overdraft and non-sufficient funds services. But an overdraft fee's practical effect is to charge those who pay them an interest rate with an APR in the thousands.

32. Accordingly, overdraft and NSF fees are punitive fees rather than service fees, which makes it even more unfair because most account overdrafts are accidental and involve a small amount of money in relation to the fee. A 2012 study found that more than 90% of customers who were assessed overdraft fees overdrew their accounts by mistake.⁵ In a 2014 study, more than 60% of the transactions that resulted in a large overdraft fee were for less than \$50.⁶ More than 50% of those assessed overdraft fees do

³ CFPB, CFPB Study of Overdraft Programs (June 2013), p. 26 (internal footnote omitted), https://files.consumerfinance.gov/f/201306_cfpb_whitepaper_overdraft-practices.pdf [last viewed Jan. 8, 2021].

⁴ Moebs Services, *Overdraft Revenue Inches Up in 2018* (March 27, 2019), <http://www.moebs.com/Portals/0/pdf/Articles/Overdraft%20Revenue%20Inches%20Up%20in%202018%200032719-1.pdf?ver=2019-03-27-115625-283> (last visited Nov. 10, 2020).

⁵ Pew Charitable Trust Report, *Overdraft America: Confusion and Concerns about Bank Practices*, at p. 4 (May 2012), https://www.pewtrusts.org/-/media/legacy/uploadedfiles/pcs_assets/2012/sciboverdraft20america1pdf.pdf (last visited Jan. 4, 2021).

⁶ Pew Charitable Trust Report, *Overdrawn*, at p. 8 (June 2014), https://www.pewtrusts.org/-/media/assets/2014/06/26/safe_checking_overdraft_survey_report.pdf (last visited Jan. 4, 2021).

not recall opting into an overdraft program, *id.* at p. 5, and more than two-thirds of customers would have preferred the financial institution decline their transaction rather than being charged a very large fee. *Id.* at p. 10.

33. Finally, the financial impact of these fees falls on the most vulnerable among the banking population with the least ability to absorb the overdraft fees. Younger, lower-income, and non-white account holders are among those most likely to be assessed overdraft fees. *Id.* at p. 3. A 25-year-old is 133% more likely to pay an overdraft penalty fee than a 65-year-old. *Id.* More than 50% of the customers assessed overdraft fees earned under \$40,000 per year. *Id.* at p. 4. And non-whites are 83% more likely to pay an overdraft fee than whites. *Id.* at p. 3.

B. Regulation E

34. For many years, banks and credit unions have offered overdraft services to their account holders. Historically, the fees these services generated were relatively low, particularly when methods of payment were limited to cash, check, and credit card. But the rise of debit card transactions replacing cash for smaller transactions—especially for younger customers who carried lower balances—provided an opportunity for financial institutions to increase the number of transactions in a checking account that could potentially be considered overdraft transactions, and for which the financial institution could assess a hefty overdraft fee. The increase in these types of transactions was timed perfectly for financial institutions, which faced falling revenue as a result of lower overall interest rates and the rise of competitive innovations such as no-fee checking accounts. Financial institutions thus recognized in overdraft fees a new and increasing revenue stream.

35. As a result, the overdraft process became one of the primary sources of revenue for financial depository institutions—banks and credit unions—both large and small. As such, financial institutions became eager to provide overdraft services to consumers because not only do overdrafts generate revenue, they do so with little risk. When an overdraft is covered, it is on average repaid in three days, meaning that the financial institution advances small sums of money for no more than a day or two.

36. Using common understanding, an overdraft occurs when two conditions are satisfied. First, the consumer initiates a transaction that will result in the money in the account falling below zero if the financial institution makes payment on the transaction. Second, the financial institution pays the transaction by advancing its own funds to cover the shortfall. An overdraft, therefore, is an extension of credit. The financial institution advancing the funds, allows the account holder to continue paying transactions even when the account has no money in it, or the account has insufficient funds to cover the amount of the withdrawal.⁷ The financial institution uses its own money to pay the transaction, on the assumption that the account holder will eventually cover the shortfall.

37. Before the Federal Reserve adopted Regulation E, many financial institutions unilaterally adopted internal “overdraft payment” plans. Consumers would initiate transactions that financial institutions would identify as “overdrafts,” then the financial institution would go ahead and cover the overdraft while charging the standard overdraft fee. Under such programs, consumers were charged a substantial fee—on average higher than the debit card transaction triggering the overdraft itself—without ever having made any choice as to whether they wanted such transactions approved or

⁷ For a thorough description of the mechanics of an “overdraft,” see <https://www.investopedia.com/terms/o/overdraft.osp> (last visited Nov. 10, 2020).

instead declined and providing the opportunity to select another form of payment rather than turning the \$4 cup of coffee at Starbucks into a \$40 cup of coffee.

38. The Federal Reserve, which has regulatory oversight over financial institutions, recognized that banks and credit unions had strong incentives to adopt these punitive overdraft programs. Banks and credit unions could rely on charging high fees for very little service and almost no risk on thousands of transactions per day, giving consumers no choice in the matter if they wanted to have a bank account at all. It is for these reasons that in 2009, the Federal Reserve Board amended Regulation E to require financial institutions to obtain affirmative consent (or so-called “opt in”) from account holders for overdraft coverage on ATM and non-recurring “point of sale” debit card transactions. After Regulation E’s adoption, a financial institution could only lawfully charge an overdraft fee on one-time debit card purchases and ATM withdrawals if the consumer opted into the financial institution’s overdraft program. Otherwise, the bank or credit union could either cover the overdraft without charging a fee or, simply, direct the transaction to be denied at the point of sale. Further, without the opt-in, there could be no NSF fee incurred because the denial of the transaction meant no transaction had taken place, and thus no transaction to return unpaid.

39. With the creation of the CFPB, it subsequently undertook the study referenced above regarding financial institutions’ overdraft programs and whether they were satisfying consumer needs. Unsurprisingly, the CFPB found that overdraft programs had a series of problems. The most pressing problem was that overdraft services were costly and damaging to account holders. The percentage of accounts experiencing at least one overdraft (or NSF) transaction in 2011 was 27%, and the average amount of overdraft and NSF-related fees paid by accounts that paid fees was \$225. The CFPB

further estimated that the banking industry may have collected anywhere from \$12.6 to \$32 billion in consumer NSF and overdraft fees in 2011, depending on what assumptions the analyst used in calculating the percentage of reported fee income should be attributed to overdrafts. The CFPB also noted that there were numerous “variations in overdraft-related practices and policies,” all of which could “affect when a transaction might overdraw a consumer’s account and whether or not the consumer would be charged a fee.”⁸

40. Given the state of overdraft programs prior to Regulation E, it is easy to understand why the Federal Reserve was concerned about protecting consumers from financial institutions unilaterally imposing high fees. Banks and credit unions in this scenario had significant advantages over consumers when it came to imposing overdraft policies. By defaulting to charging fees for point-of-sale transactions, banks and credit unions created for themselves a virtual no-lose scenario—advance small amounts of funds (average \$24) for a small period of time (average 3 days), then charge a large fee (average \$34) that is unrelated to the amount of money advanced on behalf of the customer, resulting in a APR of thousands of percent interest—using averages, 17,000% APR—all while assuming very little risk because only a very small percentage of the overdraft customers failed to repay the overdraft.

41. Because of this, Regulation E does not merely require a financial institution to obtain an opt-in disclosure agreement before charging fees for transactions that result in overdrafts. It also provides that the opt-in disclosure agreement must satisfy certain

⁸ The Federal Reserve has previously noted that “improvements in the disclosures provided to consumers could aid them in understanding the costs associated with overdrawing their accounts and promote better account management.” 69 Fed. Reg. 31761 (June 7, 2004).

requirements to be valid. The agreement must be a stand-alone document, not combined with other forms, disclosures, or contracts provided by the financial institution. It must also accurately disclose to the account holder the institution's overdraft charge policies. The account holder's choices must be presented in a "clear and readily understandable manner." 12 C.F.R. § 1005.4(a)(1). The financial institution must ultimately establish that the account holder has opted-in to overdraft coverage either through a written agreement, or through a confirmation letter to the customer confirming opt-in if the opt-in has taken place by telephone or computer after being provided a compliant opt-in disclosure agreement. Further, the financial institution cannot actively encourage consumers to opt-in to Regulation E overdraft coverage.

42. In the wake of Regulation E, some financial institutions simply decided to forego charging overdraft fees on non-recurring debit card and ATM transactions. These include large banks such as Bank of America, and smaller banks such as One West Bank, First Republic Bank, and Mechanics Bank. However, most financial institutions continued to maintain overdraft services on one-time debit card and ATM withdrawals. As such, these banks and credit unions must satisfy Regulation E's requirements in order to obtain compliant affirmative consent from their account holders before charging overdraft fees on eligible transactions.

43. But charging these exorbitant penalty fees for the bank or credit union's small advance of funds to cover overdrafts was not where it stopped. Many financial institutions began manipulating the process as to when they would consider a transaction an overdraft to further increase the profit generated by their overdraft programs. They charged overdraft fees no longer just when the financial institution actually advanced money on behalf of the customer, but assessed overdraft fees on transactions when they

paid the transaction with the customers' money. That is, the financial institution unilaterally decided the account was overdrawn not by the actual lack of funds in the account, but rather, by whether the money in the account minus holds the financial institution unilaterally decided was for future events was enough to cover an ATM or one-time debit transaction when these transactions came in for payment at some future date.

44. Most banks and credit unions calculate two account balances related to their accounting of a customer checking account. "Actual balance," "ledger balance," "current balance" or even "balance" are all terms used to describe the actual amount of the accountholder's money in the account at any particular time. In contrast, "available balance" is a term the financial industry recognizes as a balance reduced from the actual account balance by the amount the bank or credit union has either held from deposits or held from the account because of authorized debit transactions that have not yet come in (and may never come in) for payment.⁹

45. Although financial institutions calculate the two balances, the actual/ledger/current balance of the money in the account is the official balance of the account. It is used when financial institutions report deposits to regulators, when they pay interest on an account, and when they report the amount of money in the account in monthly statements to the customer—the official record of the account.

46. While there is no regulation barring any financial institution from deciding whether it will assess overdraft or NSF fees based on the actual account balance or the "available balance" for overdraft and NSF assessment purposes, per Regulation E, the

⁹ Some financial institutions use a third balance called the collected balance, which is also an internal calculated balance that is the actual account balance minus only deposit holds, and does not include debit holds.

terms of the overdraft program must be clearly and accurately disclosed. Whether the financial institution uses the actual money in the account or an internal artificial available balance to assess overdraft fees, is information the customer needs to understand the overdraft program.

47. Many financial institutions use the “available balance” for overdraft assessment purposes as it is consistent with these institutions’ self-interest because the available balance is, by definition, always the same or lower than the actual balance. The actual balance includes all money in the account. The available balance, on the other hand, always subtracts any holds placed on the funds in the account that may affect the money in the account in the future. It never adds funds to the account. To be clear, even when a financial institution has put a hold on funds in an account, the funds remain in the account. The financial institution’s “hold” is merely an internal characterization the bank or credit union uses to categorize some of the money. All of the account holder’s money remains in the account, even the money Defendant has defined as “held.” The fact that the money has a “hold” on it does not mean it has been removed from the account.

48. The difference between which of the two balances a financial institution may use to calculate overdraft transactions is material to both the financial institution and account holders. Prior investigation in similar lawsuits demonstrates that financial institutions using the available balance, instead of actual balance, increase the number of transactions that are assessed overdraft fees approximately 10-20%. What happens in those 10-20% of transactions is that sufficient funds are in the account to pay the transaction and therefore the bank or credit union has not advanced any funds to the customer. At all times, the financial institution uses the customer’s own money to pay the

transaction, which really means there has never been an overdraft at all—yet the financial institution charges an overdraft fee on the transaction anyway.

49. A hypothetical demonstrates what the financial institution is doing under these circumstances. Suppose that an individual has \$1,000. The individual intends to use \$800 of this amount to pay rent. The individual then intends to use the other \$200 to make his monthly car payment. But before the rent and car payment come due, the individual receives a \$40 water bill which informs that the bill must be paid immediately, or water service will be cut off. The individual now takes \$40 from the money he has earmarked for his car payment to pay the water bill. This individual has not spent more money than he has on hand—but he does need to find an additional \$40 before the car payment comes due. And if the individual does find the additional \$40 before paying the car payment, there will never be a problem. If he falls short, he may choose to proceed with the transaction anyway, for example, by writing a check for the car payment when he does not have funds to cover the bill. He would then create a potential “overdraft” of his funds for the car payment, but not the rent payment and the water bill.

50. The same pattern holds for financial institutions that calculate overdrafts using the actual (or ledger or current) balance of an account. Suppose the same individual put the \$1,000 in his checking account under similar circumstances on the 27th of the month. That day, he also authorizes his \$800 rent to be paid on the first of the next month, and his \$200 car payment to be paid on the third of the next month. The individual then realizes that the \$40 payment on his water bill must be paid that day—the 27th of the month—or he will incur a fee. He approves the water bill payment, and it posts immediately. Then, a few days later, he transfers an additional \$40 into the account which is enough to offset the water bill payment before the initial \$800 rent and \$200 car

payments post and clear the account. All three payments are made with the individual's own account funds. The financial institution never uses its own funds as an advance, and there is no "overdraft" of the account because the balance always remains positive. However, even if the customer does not transfer the \$40, it is only the car payment which posts last that is paid without sufficient money in the account to cover it. Thus, there is only one transaction (*i.e.*, the car payment) eligible for an overdraft fee.

51. A financial institution that uses the "available balance" method of calculating overdrafts would come to a different conclusion. Because the available balance subtracts from the account the amount of money that the financial institution is "holding" for other pending transactions, the financial institution considers the money set aside and unavailable, even though it is still in the account. This means that after the \$800 and \$200 transactions are scheduled, the "available balance" of the account is \$0 even though \$1,000 still remains in the account. Under these circumstances, when the individual makes the additional \$40 payment and it posts first, the "available balance" is negative and the accountholder is charged an overdraft fee—even though the original \$1,000 is still in the account. And what is worse, even if the accountholder deposits \$40 in the account before the original \$800 and \$200 payments post and clear, he is still subject to the overdraft fee for the \$40 transaction even though the financial institution never "covered" any portion of the payment with its own funds. Finally, what is worse still, if the customer does not make a deposit to cover the overdraft, the customer will be assessed an overdraft fee for all three transactions. Thus, using the available balance, although the financial institution only has to advance its own funds for one transaction (*i.e.*, the car payment), the financial institution will assess three overdraft fees tripling its profits from the same transactions.

52. Financial institutions have been put on notice by regulators, banking associations, their insurance companies and risk management departments, and from observing litigation and settlements that the practice of using the available balance instead of the actual amount of money in the account (*i.e.*, the actual, ledger, or current balance) to calculate overdrafts *without clear disclosure of that practice* likely violates Reg E and other state laws. For instance, the FDIC stated in 2019:

Institutions' processing systems utilize an "available balance" method or a "ledger balance" method to assess overdraft fees. The FDIC identified issues regarding certain overdraft programs that used an available balance method to determine when overdraft fees could be assessed. Specifically, FDIC examiners observed potentially unfair or deceptive practices when institutions using an available balance method assessed more overdraft fees than were appropriate based on the consumer's actual spending or when institutions did not adequately describe how the available balance method works in connection with overdrafts.¹⁰

The CFPB provided in its Winter 2015 Supervisory Highlights, that:¹¹

A ledger-balance method factors in only settled transactions in calculating an account's balance; an available-balance method calculates an account's balance based on electronic transactions that the institutions have authorized (and therefore are obligated to pay) but not yet settled, along with settled transactions. An available balance also reflects holds on deposits that have not yet cleared. Examiners observed that in some instances, transactions that would not have resulted in an overdraft (or an overdraft fee) under a ledger-balance method did result in an overdraft (and an overdraft fee) under an available-balance method. At one or more financial institutions, examiners noted that these changes to the balance calculation method used were not disclosed at all, or were not sufficiently disclosed, resulting in customers being misled as to the circumstances under which overdraft fees would be assessed. Because these misleading practices

¹⁰<https://www.fdic.gov/regulations/examinations/consumercompsupervisoryhighlights.pdf> (last visited Jan 4., 2021).

¹¹https://files.consumerfinance.gov/f/201503_cfpb_supervisory-highlights-winter-2015.pdf, p. 8 (last visited Jan. 4, 2021).

could be material to a reasonable consumer's decision making and actions, they were found to be deceptive.

53. Under Regulation E, the financial institution may decide which balance it chooses to use for overdraft fees on one-time debit card and ATM transactions, but it is also very clear that it must disclose this practice accurately, clearly and in a way that is easily understood. As the Regulation E opt-in disclosure agreement must include this information in a stand-alone document, the use of available balance must be stated in the opt-in disclosure agreement to conform to Regulation E and permit the financial institution from charging that customer overdraft fees on one-time debit card and ATM transactions. Either inaccurately or failing to describe the use of available balance as part of its overdraft practice violates the plain language of Regulation E.

C. City National's Regulation E Practices

54. On information and belief, City National opted customers into its overdraft practices using an opt-in disclosure agreement that violated Regulation E. The opt-in disclosure agreement was inaccurate and/or unclear because, *inter alia*, it did not inform Plaintiff and putative Class Members that City National uses the "available balance" to assess overdraft fees when that is its practice. It also fails to adequately describe its practice of debiting accounts for transactions it labels as "overdrafts" only to return them unpaid the next day, which inaccurately reduces the account's balance for the term of the debit.

55. Many courts have already found that failing to clearly and accurately describe an overdraft program in the Regulation E opt-in disclosure agreement constitutes

a violation of Regulation E.¹² By using inaccurate and/or ambiguous language to describe what constitutes an overdraft, City National has failed to provide a clear and easily understandable description of its overdraft services in its opt-in disclosure agreement as Regulation E demands.

56. Many financial institutions that use the available balance to calculate overdrafts have specifically addressed the practice in their opt-in disclosure agreements. San Diego County Credit Union, for example, defines an “overdraft” as when “the available balance in your account is nonsufficient to cover a transaction at the time that the transaction posts to your account, but we pay it anyway.” Synovus Bank defines an overdraft as when there is not enough money in an account, but adds the additional caveat that it “authorize[s] and pay[s] transactions using the Available Balance in [the] account,” and then specifically defines the Available Balance. TD Bank’s opt-in disclosure agreement states as follows: “An overdraft occurs when your available balance is not sufficient to cover a transaction, but we pay it anyway. Your available balance is reduced by any ‘pending’ debit card transactions (purchases and ATM withdrawals) and includes

¹² *Tims v. LGE Cmty. Credit Union*, 935 F.3d 1228, 1237-38; 1243-45 (11th Cir. 2019); *Bettencourt v. Jeanne D’Arc Credit Union*, 370 F. Supp. 3d 258, 261-66 (D. Mass. 2019); *Pinkston-Poling v. Advia Credit Union*, 227 F. Supp. 3d 848, 855-57 (W.D. Mich. 2016); *Walbridge v. Northeast Credit Union*, 299 F. Supp. 3d 338, 343-46; 348 (D.N.H. 2018) (holding that terms such as “enough money,” “insufficient funds,” “nonsufficient funds,” “available funds,” “insufficient available funds,” and “account balance” were ambiguous such that the Reg E claim was not dismissed); *Smith v. Bank of Hawaii*, No. 16-00513 JMS-RLP, 2017 WL 3597522, at *6–8 (D. Haw. Apr. 13, 2017) (“sporadic” use of terms such as “available” funds or balances insufficiently explained to consumer when overdraft fee could be charged and ambiguous use of terms in opt-in agreement constituted a proper allegation of a Reg E violation); *Walker v. People’s United Bank*, 305 F. Supp. 3d 365, 375-76 (D. Conn. 2018) (holding that allegations were sufficient to state a cause of action for violation of Reg E where opt-in form failed to provide customers with a valid description of overdraft program); *Ramirez v. Baxter Credit Union*, No. 16-CV-03765-SI, 2017 WL 1064991, at *4-8 (N.D. Cal. Mar. 21, 2017); *Gunter v. United Fed. Credit Union*, No. 315CV00483MMDWGC, 2016 WL 3457009, at *3-4 (D. Nev. June 22, 2016).

any deposited funds that have been made available pursuant to our Funds Availability Policy.” Similarly, Communication Federal Credit Union’s opt-in disclosure agreement states, “[a]n overdraft occurs when you do not have enough money in your account to cover a transaction, or the transaction exceeds your available balance, but we pay it anyway. ‘Available Balance’ is your account balance less any holds placed on your account.”

57. Here, City National’s failure to accurately, clearly, and in an easily understandable way identify that it assesses overdraft fees when the available balance falls below zero and/or identify its practice of debiting accounts for transactions it labels as “overdrafts” only to return them unpaid the next day, in a stand-alone opt-in disclosure agreement resulted in its failure to obtain the appropriate affirmative consent necessary to opt customers into its overdraft program. Further, City National’s threat to charge additional fees for declined transactions that would not be assessed if opted into overdraft coverage violates Regulation E’s prohibition against actively encouraging customers to opt-in. City National has and continues to charge Plaintiff and class members overdraft fees for non-recurring debit card and ATM transactions in violation of Regulation E. Further, on information and belief, City National continues to “opt-in” new checking account customers into its overdraft program using an improper opt-in disclosure agreement.

D. Other Improper Fee-Related Practices

Repeat NSF Fees on the Same Item

58. Using a non-compliant Regulation E opt-in disclosure agreement that fails to accurately describe its actual overdraft practices is just one way that City National manipulates checking accounts to increase profits. It also contracts and discloses to

customers that it will only charge a single NSF fee when it opts to return a check or ACH due to a lack of funds in the account. For ACH charges, the rejection of the electronic requested charge is completely automated, and results in no risk cost to the financial institution as there is also virtually no cost to administer the automated rejection. However, the NSF fee is the same as if the transaction was paid into overdraft by the financial institution. But what is worse, financial institutions like City National not only charge one NSF fee for a returned item (\$25 here), they charge multiple fees for insufficient funds on the same item and attempt to justify the practice as caused by a merchant submitting the same item for payment multiple times.

59. While this practice is unfair, more importantly, it is not authorized by City National's contracts with customers. Those contracts do not permit the charging of multiple NSF fees based on the same item with the same merchant. Nor do they permit charging an NSF fee followed by an overdraft fee on the same item if the item is paid into overdraft on a second presentment. Instead, the contracts and relevant disclosures identify an insufficient funds fee as being singular on a per item basis.

60. Unlike Defendant here, other banks and credit unions have been able to properly contract and disclose the practice of charging multiple fees for the representation of the same item. For example, Air Academy Federal Credit Union clearly states that an NSF fee is "\$32.00 **per presentment.**" (Emphasis added.)

61. Central Pacific Bank contracts unambiguously:

Items and transactions (such as, for example, checks and electronic transactions/payments) returned unpaid due to insufficient/non-sufficient ("NSF") funds in your account, may be resubmitted one or more times for payment, and a \$32 fee will be imposed on you each time an item and transaction resubmitted for payment is returned due to insufficient/nonsufficient funds.

(Emphasis added.)

62. Delta Community Credit Union states its NSF fee is “\$35 **per presentment.**” (Emphasis added.) Further, in its Account Agreement, Delta unambiguously states as follows:

The Credit Union reserves the right to charge you an overdraft/insufficient funds fee if you write a check or initiate an electronic transaction that, if posted, would overdraw your Checking Account. **Note that you may be charged an NSF fee each time a check or ACH is presented to us, even if it was previously submitted and rejected.**

(Emphasis added.)

63. Glendale Federal Credit Union lists its NSF fee as “\$30 **per presentment.**”

(Emphasis added.)

64. First Financial Bank contracts unambiguously:

Merchants or payees may present an item multiple times for payment if the initial or subsequent presentment is rejected due to insufficient funds or other reason (representment). **Each presentment is considered an item and will be charged accordingly.**”

(Emphasis added.)

65. First Northern Credit Union lists its NSF fee as “\$22.00 per each presentment and any subsequent presentment(s).” Further, in its Account Agreement, First Northern unambiguously states as follows:

You further agree that **we may charge a NSF fee each time an item is presented for payment even if the same item is presented for payment multiple times.** For example, if you wrote a check to a merchant who submitted the payment to us and we returned the item (resulting in a NSF fee), the merchant may re-present the check for payment again. If the second and any subsequent presentments are returned unpaid, **we may charge a NSF fee for each time we return the item. You understand this means you could be charged multiple NSF fees for one check** that you wrote as that check could be presented and returned more than once. **Similarly**, if you authorize a merchant (or other individual or

entity) to electronically debit your account, such as an ACH debit, **you understand there could be multiple submissions of the electronic debit request which could result in multiple NSF fees.**

(Emphasis added.)

66. Liberty Financial states its NSF fee is “27.00 **per presentment.**”

(Emphasis added.)

67. Los Angeles Federal Credit Union lists its NSF fee as “\$29 **per presentment.**” (Emphasis added.)

68. Members First Credit Union states:

We reserve the right to charge an Non-Sufficient Funds Fee (NSF Fee) each time a transaction is presented if your account does not have sufficient funds to cover the transaction at the time of presentment and we decline the transaction for that reason. **This means that a transaction may incur more than one Non-Sufficient Funds Fee (NSF Fee) if it is presented more than once...we reserve the right to charge a Non-Sufficient Funds (NSF Fee) for both the original presentment and the representation**

(Emphasis added.)

69. Meriwest Credit Union lists its fee as “\$35.00/item **per presentment.**”

(Emphasis added.)

70. Partners 1st Federal Credit Union states:

Consequently, because **we may charge a fee for an NSF item each time it is presented, we may charge you more than one fee for any given item.** Therefore, multiple fees may be charged to you as a result of a returned item and resubmission regardless of the number of times an item is submitted or resubmitted to us for payment, and regardless of whether we pay the item or return, reverse, or decline to pay the item.

(Emphasis added.)

71. Regions Bank states:

If an item is presented for payment on your account at a time when there is an insufficient balance of available funds in your account to pay the item in full, you agree to pay us our charge for items drawn against insufficient or unavailable funds, whether or not we pay the item. **If any item is presented again after having previously been returned unpaid by us, you agree to pay this charge for each time the item is presented for payment and the balance of available funds in your account is insufficient to pay the item.**

(Emphasis added.)

72. Tyndall Federal Credit Union lists its NSF fee as “\$28.00 **per presentment** (maximum 5 per day).” (Emphasis added.)

Pay All, Next Day Return

73. City National also improperly withdraws from an account the full amount of debit items that it labels as overdrafts even when it will return the debit item as unpaid and no money will ever be debited from the account for that item. Instead, after debiting the money from the account one day under the guise of it being an “overdraft” that will be paid, City National instead returns the item unpaid the following day and credits back to the account the premature debit. But by debiting the accountholder’s money in the interim even when the money is still in the account, it lowers the account balance making it more likely that other subsequently processed items will be assessed overdraft or NSF fees. Here’s how it works. Say the account holder starts with a balance of \$200. City National receives an account holder’s instruction for payment of a medical bill for \$300 on Monday. City National determines the account does not contain enough money to cover the \$300 bill payment but classifies the transaction item as an overdraft that it has paid and debits the account \$300 and charges a \$25 overdraft fee as a result. Thus, as of Monday, the account balance is reduced by \$325 and now is in the negative, and it appears as though City National has covered/paid the \$300 bill. All transactions big and

small following that removal of \$325, would be an overdraft triggering an overdraft fee even though there is \$200 still in the account. But on Tuesday, City National instead returns the \$300 bill unpaid and credits the account for the \$300 debit the prior day and changes the \$25 overdraft fee to a \$25 NSF fee. The practical effect of this maneuver lowers the account balance on Monday by \$300—which increases the likelihood that subsequent transactions on Monday will be assessed overdraft fees before the \$300 is credited back to the account on Tuesday.

74. While this practice is unfair, City National’s contracts and disclosures also do not identify this practice, instead stating that transactions are processed nightly on the day received.

VI FACTUAL ALLEGATIONS AGAINST DEFENDANT

A. Violation of Regulation E

75. At all relevant times, City National used the “available balance,” and not the actual account balance to determine whether to assess overdraft fees on one-time debit card and ATM transactions.

76. At all relevant times, City National knew or should have known, that in order to legally charge its customers overdraft fees, it was required to first obtain affirmative consent from the customer using a Regulation E compliant stand-alone opt-in disclosure. Regulation E compliance requires, at a minimum, that a financial institution accurately disclose all material parts of its overdraft program and policies in the opt-in disclosure agreement in clear and easily understood language before obtaining consent from a customer to “opt in” to those programs.

77. At all relevant times, on information and belief, City National used an identical opt-in disclosure agreement with Plaintiff and all putative Class Members.

78. On information and belief, the opt-in disclosure agreement did not accurately and in a clear and easily understandable way describe City National's overdraft services including, but not limited to, failing to clearly describe that an overdraft occurs when the "available balance" is below zero when that is its practice and/or identify its practice of debiting accounts for transactions it labels as "overdrafts" only to return them unpaid the next day.

79. Because, on information and belief, City National uses an opt-in disclosure agreement that does not accurately and clearly describe its overdraft practices and thus is not compliant with Regulation E, City National is not permitted to charge customers overdraft fees on one-time debit card and ATM transactions.

80. At all relevant times, City National knew it was using the available balance to assess overdraft fees and that it first labeled transactions as overdrafts when, in reality, the items would be returned unpaid the following day, and further knew or should have known that these practices had to be clearly and accurately described in a stand-alone document. City National also knew or should have known that its opt-in disclosure agreement was not providing an accurate, clear and easily understandable definition of an overdraft.

81. At all relevant times, City National charged Plaintiff and the putative class members overdraft fees on one-time debit card and ATM transactions even though it had not complied with Regulation E to first obtain customers' affirmative consent using a Regulation E compliant opt-in disclosure agreement before it charged these fees, and while using practices to actively encourage customers to opt-in to Reg E overdraft coverage.

82. Based on information and belief, City National continues to “opt-in” to its overdraft program customers using a non-compliant opt-in disclosure agreement and other prohibited practices, and then charges those customers overdraft fees on one-time debit card and ATM transactions.

83. Based on information and belief, City National continues to charge existing customers overdraft fees on one-time debit card and ATM transactions who had “opted-in” using that same non-compliant opt-in disclosure agreement.

B. Violations of the Account Agreement and Other Disclosures

84. At all relevant times, City National has had an overdraft and NSF fee program in place which, *inter alia*, is: 1) contrary to the express and implied terms of its contracts with customers; 2) contrary to City National’s representations about its overdraft and NSF fee program to its customers; and 3) contrary to its customers’ expectations regarding the assessment of such fees.

85. City National has an improper practice of charging multiple fees for the same electronic item. City National charges a \$25 fee when an electronic item is first processed for payment at the request of an account holder and City National determines that there is not enough money in the account to cover the item. City National then charges an additional NSF or overdraft fee if the same item is presented for processing again by the payee.

86. City National’s practice of charging additional NSF or overdraft fees for the representation of the same item violates its “Consumer Deposit Account Agreement and Disclosure” (hereinafter “Account Agreement”). (The Account Agreement attached hereto as Ex. 1, dated August 2019, is believed to be one of the operative agreements during the class period and representative of the account agreements in the class period.)

The Account Agreement is a uniform written contract that City National entered with Plaintiff and the other Class Members. The Account Agreement specifically defines “[a]n [i]tem” (singular) as including:

a check, substitute check, purported substitute check, electronic item or transaction, draft, demand draft, remotely created item, image replacement document indemnified copy, ATM withdrawal or transfer, point-of-sale transaction, pre-authorized payment, automatic transfer, telephone-initiated transfer, ACH transaction, online banking transfer or bill payment instruction, withdrawal slip, in-person transfer or withdrawal, cash ticket, deposit adjustment, any other instruction or order for the payment, transfer, or withdrawal of funds, and an image or photocopy of any of the foregoing.

(Ex. 1, at 19.) Throughout the Account Agreement, City National then states that *an* NSF fee is assessed for *an* item. For instance, when describing how non-sufficient funds transactions work in the absence of overdraft protection, it provides an example: if a customer has a \$50 balance and “write[s] a check for \$100, [City National] will return your check unpaid and charge your account *a fee* (in this example, \$25).” (*Id.*, at 12 (emphasis added).) When referring to a debit item that is posted to an overdrawn account, it says it will be subject to “a[] . . . fee of \$25.” (*Id.*) And in a section titled “Important Information” when discussing an overdraft debit item, “including checks written, ATM withdrawals, ACH debits, point of sale debit card transactions or any other electronic transaction,” it states in bolded print that “[e]ach overdraft [item] paid or returned will be subject to a fee (\$25).” (*Id.*, at 13 (emphasis in original).) This is reiterated in a section titled “Overdraft Protection Terms and Conditions. (*Id.*, at 14.) The Account Agreement further states “[a]ny overdraft items in excess of your Overdraft Protection limit may be paid or returned at the Bank’s discretion and assessed a fee.” (*Id.* (emphasis in original).) Further, when describing how overdraft protection works with a debit card, it states if you do not opt-in to Regulation E overdraft coverage, “[t]hese transactions will be declined when you do not have enough money in your account” and no “non-sufficient item *fee*” will be charged (although the customer “may

be charged a Visa Debit Card denial fee”). (*Id.*, at 12 (emphasis added).) Finally, in a section on “Overdrafts” it states “[w]hen *you* transmit a transfer or payment request to us, *you* authorize us to charge your account for the amount indicated. If your account does not have sufficient available funds, we may reject the transaction. We may charge *a fee* for each payment or transfer request presented against an account with non-sufficient funds.” (*Id.*, at 20 (emphasis added).)

87. In other words, City National’s own Account Agreement states, in the singular, that it will assess “a fee,” not plural “multiple insufficient funds fees.” Further, City National defines “an item” as a single electronic transaction based on a “transfer or payment request” from an account holder. Nowhere does the Account Agreement explain that “representment” or “retry” of “an item” by a payee (as opposed to the account holder) changes it into a new or different item. It is still the same “item” being presented in the same dollar amount; not a new “item.” An electronic item reprocessed after an initial return for insufficient funds, especially through no action by the account holder, cannot and does not fairly become a new, unique additional “item” for fee assessment purposes. Furthermore, although Plaintiff is unaware at this time whether City National’s Fee Schedule was ever served on Class Members in a manner required to make it effective, the Fee Schedule also refers to a singular “Non-Sufficient Funds Fee” of “\$25.00.” (*See* Ex. 2, Fee Schedule, dated August 2020.)

88. City National’s standardized Account Agreement and Fee Schedule misrepresent to account holders that Defendant will only charge a single fee on an item. Further, because City National charged NSF fees improperly, and because City National’s improper deduction of additional improper \$25 fees from a customer’s account further decreased the customer’s “balance” or “available balance,” it likely generated even more NSF fees or overdraft fees to the account.

89. Courts in various jurisdictions have recognized that when banks and credit unions charge multiple NSF fees on the same item while failing to clearly disclose such practice, it gives rise to claims and causes of action on a class-wide basis. *See e.g.*, *Morris v. Bank of America*, No. 3:18-cv-00157-RJC-DSC, 2019 WL 1274928, at *2, 4 (W.D.N.C., Mar. 29, 2019) (upholding magistrate judge’s recommendation denying motion to dismiss for breach of contract repeat NSF fee claim); *Tannehill v. Simmons Bank*, No. 3:19-cv-140-DPM, 2019 WL 7176777, at *1 (E.D. Ark. Oct. 21, 2019) (permitting claims to proceed where defendant bank promised to assess a single NSF fee per item); *Noe v. City National Bank of West Virginia*, Civil Action No. 3:19-0690, 2020 WL 836871, at *5-7 (S.D.W.V. Feb. 19, 2020) (denying motion to dismiss breach of contract claim based on the assessment of repeat NSF fees for the same electronic transaction or “item”); *Perks, et al. v. TD Bank, N.A.*, 444 F. Supp. 3d 635, 639-42 (S.D.N.Y. Mar. 17, 2020) (denying dismissal of a breach of contract claim based on the assessment of repeat NSF fees for the same item due to the ambiguity in the definition of “item”); *Coleman, et al. v. Alaska USA Federal Credit Union*, Civil Action No. 3:19-cv0229-HRH, 2020 WL 1866261, at *4 (D. Alaska Apr. 14, 2020) (order denying motion to dismiss plaintiffs’ breach of contract and good faith and fair dealing claims for repeat NSF fees).¹³

¹³ *See also* the following state court case decisions and unpublished federal cases finding the same: *Baptiste v. GTE Federal Credit Union*, 20-CA-002728 (13th Judicial Court, Hillsborough Co., Florida, July 8, 2020); *Ingram v. Teachers Credit Union*, Cause No. 49D011908-PL-035431 (Indiana Commercial Court, Marion County Superior Court, Feb. 18, 2020); *Darty v. Scott Credit Union*, No 19L0793 (St. Clair Co., Ill., June 24, 2020); *Vocaty v. Great Lakes Credit Union*, No 19-L-727 (Lake Cty. Cir., Ill., June 3, 2020); *Brown v. Educators Credit Union*, No. 2019CV1814 (Racine Co., WI, July 1, 2020); *Duncan v. BancFirst*, No. CJ-2020-348 (Dist. Okla. Cty., June 3, 2020); *Romohr v. The Tennessee Credit Union*, No. 19-1542-BC (Davidson Co. Tenn. Chancery Court, May 19, 2020); *Almon v. Independence Bank*, Case No. 19-CI-00817 (Ky. Cir. Ct., McCracken

90. Moreover, City National violates the terms of the Account Agreement through its practice of debiting accounts for transactions it labels as “overdrafts” only to return them unpaid the next day, which inaccurately reduces the account’s balance for the term of the debit. The Account Agreement only describes an item as being returned unpaid; not first being debited from the account as though paid, then later being returned unpaid. (*See*, Ex. 1, at 12.) For example, when describing how non-sufficient funds transactions work in the absence of overdraft protection, it states if a customer has a \$50 balance and “write[s] a check for \$100, the Bank will return your check unpaid and charge your account *a fee* (in this example, \$25).” (*Id.*) The Account Agreement does not say it will first determine the item to be an overdraft and debit from the account the amount of the transaction as if it is being paid, and then reclassify the item as a non-

County, Mar. 18, 2020); *Perri v. Notre Dame Federal Credit Union*, No. 71C01-1909-PL-000332 (Ind. Cir. Ct. St. Joseph Cty., March 2, 2020); *Garcia v. UMB Bank NA*, No. 1916-CV01874 (Jackson Co., MO Circuit Court, Oct. 18, 2019); *Tisdale v. Wilson Bank and Trust*, No. 19-400-BC (Davidson Co. Tenn. Chancery Court, Oct. 17, 2019); *McMurrin v. America First Credit Union*, Case No: 190909065 CN (3rd District Court, Salt Lake County, Utah) (May 5, 2020); *Teel v. HAPO Community Credit Union*, No. 19-2-03193-03 (Super. Ct., Benton Cty., Wa.); *Garciga v. South Florida Educ. Fed. Credit Union*, No. 2020-000733-CA-01 (Miami-Dade Cty., Fla. June 19, 2020); *Young v. The Washington Trust Co.*, 1:19-cv-00524-WES-PAS (D.R.I.) (June 2, 2020); *Pierce v. Safe Credit Union*, No. 34-2020-00275892-CU-CO-GDS (Superior Court of California, County of Sacramento, Oct. 29, 2020); *Williams v. Travis Credit Union*, No. FCS054738 (Superior Court of California, County of Solano, Oct. 14, 2020); *n Hewitt v. UW Credit Union*, No. 20-cv-1295 (Dane County (WI) Circuit Court, Nov. 5, 2020); *Rivera v. IH Mississippi Valley Credit Union*, Case No. 2019 CH 299 (Ill. Cir. Ct. of the Fourteenth Jud. Cir., Oct. 30, 2020); *McNeil v. Capital One Bank, N.A.*, No. 1:19-cv-00473-FB-RER (E.D.N.Y. Sept. 29, 2020) (ECF 48); *Jones v. Lake Michigan Credit Union*, No. 20-000240-CK (Washtenaw Co. Mich. Sept. 29, 2020); *Roy v. ESL Federal Credit Union*, No. 19-CV-6122-FPG (W.D.N.Y. Sept. 30, 2020 (ECF 57); *Varga v. American Airlines Credit Union*, Case No. 2:20-cv-04380 (C.D. Cal., Dec. 1, 2020); *Wilkins, et al. v. Simmons Bank*, Case No. 3:20-cv-116-DPM (E.D. Ark., Dec. 9, 2020); *Burgos v. Campus USA Credit Union*, Case No. 01-2020-CA-1175 (Alachua Cty., Florida, Dec. 7, 2020); *Glass, et al. v. Delta Community Credit Union*, Case No. 2019CV317322 (Fulton Cty., Georgia, Dec. 8, 2020); and *Chambers v. HSBC Bank USA, N.A.*, Case No. 1:19-cv-10436-ER (S.D.N.Y. Dec. 10, 2020).

sufficient funds transaction to be returned unpaid the next day. In fact, the Account Agreement throughout describes non-sufficient funds transactions in the same context as overdrafts which are supposedly processed the day they are posted. Moreover, when discussing how items are processed in an account, the Account Agreement explains that processing occurs at the “end of a business day” and that City National posts transactions to the account “during nightly processing as the end of each business day.” (*Id.*, at 15.) No reasonable customer would suspect that City National first processes items as overdrafts at the end of the business day, thus allowing it to debit funds from an account, only to recharacterize the transaction the following day as an NSF (meaning the money never should have been debited from the account in the first place). But by processing NSF transactions in this manner, City increases the likelihood that other transactions will be deemed overdrafts in the interim, and thus creates the potential to charge its account holders with additional fees.

91. Plaintiff and the Class Members have performed all conditions, covenants, and promises required by each of them in accordance with the terms and conditions of the contracts. Meanwhile, Plaintiff and the Class Members could not have reasonably anticipated the harm resulting from Defendant’s practice throughout the class period because the Account Agreement and Fee Schedule specifically stated that only a singular fee would be charged for “an” item and that transactions are processed daily with no mention of recharacterizing them the following day.

92. Therefore, Plaintiff, on behalf of herself and all others similarly situated, seeks relief as set forth below.

IV PLAINTIFF'S HARM

93. Plaintiff has held an account with City National at all times relevant to the allegations and is believed to be opted into its overdraft program for her debit card and ATM transactions.

94. As will be established using City National's own records, Plaintiff has been assessed numerous improper fees on debit card and ATM transactions. On November 9, 2020, Plaintiff was assessed a \$25 overdraft fee because of a \$0.99 non-recurring debit card transaction. This happened again—three more times—on \$0.99 transactions. Thus, on just one day, Plaintiff was assessed \$100 in overdraft fees for transactions totaling less than \$4. Based on information and belief, City National assessed each of these fees although it used a non-compliant opt-in disclosure agreement to garner Plaintiff's affirmative consent to be charged such fees in violation of Regulation E requirements. Thus, City National was not permitted to charge Plaintiff these fees.

95. City National also assessed Plaintiff improper fees based on its policy and practice of charging an NSF fee more than once for the same "item." By doing so, Defendant breached its contracts with Plaintiff and the absent Class Members. As an example, on October 22, 2020, Plaintiff initiated a \$102.58 payment to State Farm, which City National returned as unpaid on October 23, 2020 (after first treating it as an overdraft). On the day it returned the payment, City National charged Plaintiff a \$25 "NSF Return Item Fee" for the unpaid item. This fee is not in dispute. But City National also charged Plaintiff another \$25.00 NSF fee on October 29 when State Farm resubmitted the same \$102.58 item (labeled as a "Retry Pymt"), and City National again returned it as unpaid. In charging that second \$25 fee for the same \$102.58 item, City National in effect increased the fee for the returned item from \$25 to \$50. The second

\$25 charge was not authorized because it directly conflicts with the Account Agreement, which establishes that the fee for a single NSF transaction is \$25, not \$50. Moreover, if City National had not improperly assessed the second NSF fee on the State Farm payment, Plaintiff would have been able to pay the subsequent \$0.99 debit card charge that elicited yet another overdraft fee.

96. City National further increased its fees by debiting from Plaintiff's account transactions labeled as overdrafts and then crediting the funds back to the account the following day when City National returned the transaction as unpaid, thus increasing the likelihood that other transactions would be processed on insufficient funds in the interim. For instance, on January 10, 2020, Plaintiff had a positive account balance of \$76.22. She then wrote a check for \$90. City National debited her account for \$90 on January 10, and assessed a \$25 overdraft fee. On January 11, however, City National returned the check as unpaid, credited Plaintiff's account for the \$90, and renamed the \$25 overdraft fee as an NSF fee. By debiting the \$90 from the account on Monday, however, it caused City National to consider Plaintiff's next check an overdraft/NSF transaction as well. If City National had returned the check as unpaid on January 10, it would have had no pretextual excuse to debit \$90 from the account, and even with a \$25 NSF fee, Plaintiff's balance would have remained positive leaving enough funds in the account to cover the next check for \$42. Instead, City National determined that the account had insufficient funds on January 10, so it returned the \$42 check and assessed another fee. Thus, City National assessed Plaintiff an unnecessary NSF fee and caused Plaintiff to face the potential of further penalty from the payee for the returned check, even though Plaintiff would have had money in the account if City had properly processed the \$90 on the first day it was presented.

97. The extent of improper charges City National assessed upon Plaintiff and other customers will be determined in discovery using City National's records.

98. Plaintiff did not and could not have, exercising reasonable diligence, discovered both that she had been injured and the actual cause of that injury until she met with her attorneys in 2020. While Plaintiff understood that she was assessed fees, she did not understand the cause of those fees until 2020 because City National hid its actual practices from its customers by describing different practices in its contracts and other materials disseminated to its customers. This not only reasonably delayed discovery, but City National's affirmative representations and actions also equitably toll any statute of limitations, and also additionally equitably estop City National.

VII CLASS ACTION ALLEGATIONS

99. The preceding allegations are incorporated by reference and re-alleged as if fully set forth herein.

100. Plaintiff brings this case, and each of the respective causes of action, as a class action.

101. The "Class" is composed of the following:

The Regulation E Class:

All customers of Defendant who have or have had accounts with Defendant who were assessed an overdraft fee on a one-time debit card or ATM transaction beginning one-year preceding the filing of this complaint and ending on the date the Class is certified.

The Repeat NSF Class:

All customers of Defendant who have or have had accounts with Defendant who incurred more than one NSF fee or an NSF fee followed by an overdraft fee for the same item during the period beginning five years preceding the filing of this Complaint and ending on the date the Class is certified.

The Pay All, Next Day Return Class:

All customers of Defendant who have or have had accounts with Defendant who incurred an overdraft or NSF fee following an initial transaction processed as a paid item that left insufficient funds in the account to pay subsequent items that would not have resulted in a negative balance overdraft or NSF fee if the initial item had been processed as returned or unpaid on the initial day of processing during the period beginning five years preceding the filing of this Complaint and ending on the date the Class is certified.

102. Excluded from the Classes are: 1) any entity in which Defendant has a controlling interest; 2) officers or directors of Defendant; 3) this Court and any of its employees assigned to work on the case; and 4) all employees of the law firms representing Plaintiff and the Class Members.

103. Following discovery, these definitions may be amended as appropriate.

104. This action has been brought and may be properly maintained on behalf of each member of the Class pursuant to Federal Rules of Civil Procedure, Rule 23(a), (b)(2), and (b)(3).

105. **Numerosity** – The members of the Class (“Class Members”) are so numerous that joinder of all Class Members would be impracticable. While the exact number of Class Members is presently unknown to Plaintiff, and can only be determined through appropriate discovery, Plaintiff believes based on the percentage of customers that are harmed by these practices with banks and credit unions with similar practices, that the Class is likely to include thousands of customers.

106. Upon information and belief, Defendant has databases, and/or other documentation, of its customers’ transactions and account enrollment. These databases and/or documents can be analyzed by an expert to ascertain which of Defendant’s customers has been harmed by its practices and thus qualify as a Class Member. Further, the Class definitions identify groups of unnamed plaintiffs by describing a set of common

characteristics sufficient to allow a member of that group to identify himself or herself as having a right to recover. Other than by direct notice through mail or email, alternative proper and sufficient notice of this action may be provided to the Class Members through notice published in newspapers or other publications.

107. **Commonality** – This action involves common questions of law and fact. The questions of law and fact common to both Plaintiff and the Class Members include, but are not limited to, the following:

- whether Defendant used the available balance for making a determination of whether to assess overdraft fees on one-time debit card and ATM transactions;
- whether the opt-in disclosure agreement Defendant used to opt-in Class Members violated Regulation E because Defendant’s opt-in disclosure agreement is not a stand-alone document that accurately, clearly, and in an easily understandable way describes Defendant’s overdraft services;
- whether Defendant breached Regulation E when it assessed overdraft fees on one-time debit card and ATM transactions against Class Customers;
- whether, pursuant to the Account Agreement and/or Fee Schedule, Defendant contracted to charge “a” single fee for an NSF “item” rather than repeat fees for the same “item;”
- whether Defendant breached the Account Agreement and/or Fee Schedule by assessing repeat fees on the same “item;”
- whether, pursuant to the Account Agreement, Defendant was permitted to remove funds from an account on the initial day of processing for an “overdraft” transaction, only to credit the money back to the account the next day and return the transaction as unpaid;
- whether Defendant breached the Account Agreement by removing money

from the account on the initial day of processing only to credit the money back to the account the next day and return the transaction as unpaid:

- whether the language of the Account Agreement and/or Fee Schedule is ambiguous;
- whether Defendant is liable for breach of the covenant of good faith and fair dealing, unjust enrichment and money had and received; and
- whether Defendant continues to violate Regulation E and unjustly enrich itself by opting in customers using an opt-in disclosure agreement that violates Regulation E, and continuing to assess customers overdraft fees on one-time debit card and ATM transactions based on an opt-in disclosure agreement that violates Regulation E.

108. **Typicality** – Plaintiff’s claims are typical of all Class Members. The evidence and the legal theories regarding Defendant’s alleged wrongful conduct committed against Plaintiff and all of the Class Members are substantially the same because the opt-in disclosure agreement used to opt-in Plaintiff is the same as the opt-in disclosure agreement used by Defendant to opt-in the Class Members. Plaintiff and the Class Members have each been assessed overdraft fees on one-time debit card and ATM transactions. Further the Account Agreement and Fee Schedule between Defendant and its customers were identical as to all relevant terms, and also because, *inter alia*, the challenged practice of charging customers multiple fees for the same item, and removing money from an account on the initial day of processing only to credit it back the following day and return the transaction unpaid, was uniform for Plaintiff and all Class Members. Accordingly, in pursuing her own self-interest in litigating her claims, Plaintiff will also serve the interests of the other Class Members.

109. **Adequacy** – Plaintiff will fairly and adequately protect the interests of the Class Members. Plaintiff has retained competent counsel experienced in class action litigation, and specifically financial institution overdraft class action cases to ensure such protection. There are no material conflicts between the claims of the representative Plaintiff and the customers of the Class that would make class certification inappropriate. Plaintiff and counsel intend to prosecute this action vigorously.

110. **Predominance and Superiority** – The matter is properly maintained as a class action because the common questions of law or fact identified herein and to be identified through discovery predominate over questions that may affect only individual Class Members. Further, the class action is superior to all other available methods for the fair and efficient adjudication of this matter. Because the injuries suffered by the individual Class Members are relatively small compared to the cost of the litigation, the expense and burden of individual litigation would make it virtually impossible for Plaintiff and Class Members to individually seek redress for Defendant’s wrongful conduct. Even if any individual person or group(s) of Class Members could afford individual litigation, it would be unduly burdensome to the courts in which the individual litigation would proceed. The class action device is preferable to individual litigation because it provides the benefits of unitary adjudication, economies of scale, and comprehensive adjudication by a single court. In contrast, the prosecution of separate actions by individual Class Members would create a risk of inconsistent or varying adjudications with respect to individual Class Members that would establish incompatible standards of conduct for the party (or parties) opposing the Class and would lead to repetitious trials of the numerous common questions of fact and law. Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would

preclude its maintenance as a class action. As a result, a class action is superior to other available methods for the fair and efficient adjudication of this controversy. Absent a class action, Plaintiff and the Class Members will continue to suffer losses, thereby allowing Defendant's violations of law to proceed without remedy and allowing Defendant to retain the proceeds of its ill-gotten gains.

111. Plaintiff does not believe that any other Class Members' interests in individually controlling a separate action are significant, in that Plaintiff has demonstrated above that her claims are typical of the other Class Members and that she will adequately represent the Class. This particular forum is desirable for this litigation because Plaintiff's claims arise from activities that occurred largely therein. Plaintiff does not foresee significant difficulties in managing the class action in that the major issues in dispute are susceptible to class proof.

112. Plaintiff anticipates the issuance of notice, setting forth the subject and nature of the instant action, to the proposed Class Members. Upon information and belief, Defendant's own business records and/or electronic media can be utilized for the contemplated notices. To the extent that any further notices may be required, Plaintiff anticipates using additional media and/or mailings.

113. This matter is properly maintained as a class action pursuant to Federal Rules of Civil Procedure, Rule 23 in that without class certification and determination of declaratory, injunctive, statutory and other legal questions within the class format, prosecution of separate actions by individual customers of the Class will create the risk of:

- inconsistent or varying adjudications with respect to individual customers of the Class which would establish incompatible standards of conduct for the parties opposing the Class; or

- adjudication with respect to individual customers of the Class would, as a practical matter, be dispositive of the interests of the other customers not parties to the adjudication or substantially impair or impede their ability to protect their interests.

Common questions of law and fact exist as to the customers of the Class and predominate over any questions affecting only individual customers, and a class action is superior to other available methods of the fair and efficient adjudication of the controversy, including consideration of:

- the interests of the customers of the Class in individually controlling the prosecution or defense of separate actions;
- the extent and nature of any litigation concerning the controversy already commenced by or against customers of the Class;
- the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and the difficulties likely to be encountered in the management of a class action.

114. Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final declaratory and injunctive relief with respect to the Class as a whole under Federal Rules of Civil Procedure, Rule 23(b)(2). Moreover, on information and belief, Plaintiff alleges that Defendant's use of a non-compliant Regulation E opt-in disclosure agreement is substantially likely to continue in the future if an injunction is not entered.

FIRST CAUSE OF ACTION
(Violation of Regulation E)

115. The preceding allegations are incorporated by reference and re-alleged as if fully set forth herein.

116. By charging overdraft fees on ATM and non-recurring debit card transactions, Defendant violated Regulation E, 12 C.F.R. §§ 1005, *et seq.*, whose “primary objective” is “the protection of individual consumer,” 12 C.F.R. § 1005.1(b), and which “carries out the purposes of the Electronic Fund Transfer Act, 15 U.S.C. §§ 1693, *et seq.*, the ‘EFTA,’” 12 C.F.R. § 1005.1(b).

117. Specifically, Defendant’s charges violated Regulation E’s “Opt In Rule.” *See* 12 C.F.R. § 1005.17. The Opt In Rule states: “a financial institution . . . *shall not assess a fee or charge . . . pursuant to the institution’s overdraft service, unless the institution: (i) [p]rovides the consumer with a notice in writing [the opt-in notice] . . . describing the institution’s overdraft service*” and (ii) “[p]rovides a reasonable opportunity for the consumer to *affirmatively consent*” to enter into the overdraft program. *Id.* (emphasis added). The notice “shall be clear and readily understandable.” 12 C.F.R. § 1005.4(a)(1). To comply with the affirmative consent requirement, a financial institution must provide a segregated description of its overdraft practices that is accurate, non-misleading and truthful and that conforms to 12 C.F.R. § 1005.17 prior to the opt-in, and must provide a reasonable opportunity to opt-in after receiving the description. The affirmative consent must be provided in a way mandated by 12 C.F.R. § 1005.17, and the financial institution must provide confirmation of the opt-in in a manner that conforms to 12 C.F.R. § 1005.17. Furthermore, choosing not to “opt-in” cannot adversely affect any other feature of the account, nor can the financial institution influence a customer’s decision to opt-in.

118. The intent and purpose of this opt-in disclosure agreement is to “assist customers in understanding how overdraft services provided by their institutions operate . . . by explaining the institution’s overdraft service . . . in a clear and readily

understandable way”—as stated in the Official Staff Commentary, 74 Fed. Reg. 59033, 59035, 59037, 5940, 5948, which is “the CFPB’s official interpretation of its own regulation,” “warrants deference from the courts unless ‘demonstrably irrational,’ and should therefore be treated as “a definitive interpretation” of Regulation E. *Strubel v. Capital One Bank (USA)*, 179 F. Supp. 3d 320, 324 (S.D.N.Y. 2016) (quoting *Chase Bank USA v. McCoy*, 562 U.S. 195, 211 (2011)) (so holding for the CFPB’s Official Staff Commentary for the Truth In Lending Act’s Reg Z).

119. Defendant failed to comply with Regulation E, 12 C.F.R. § 1005.17, which requires affirmative consent before a financial institution may assess overdraft fees against customers’ accounts through an overdraft program for ATM withdrawals and non-recurring debit card transactions. On information and belief, Defendant has failed to comply with the 12 C.F.R. § 1005.17 opt-in requirements, including failing to provide its customers with a stand-alone disclosure agreement that in a “clear and readily understandable way” describes the overdraft program, meeting the strictures of 12 C.F.R. § 1005.17. On information and belief, the opt-in disclosure agreement does not accurately and in an easily understandable manner describe City National’s overdraft services including, but not limited to, failing to clearly describe that an overdraft occurs when the “available balance” is below zero when that is its practice and/or failing to clearly describe its practice of debiting accounts for transactions it labels as “overdrafts” only to return them unpaid the next day, which inaccurately reduces the account’s balance for the term of the debit.

120. As a result of violating Regulation E’s prohibition against assessing overdraft fees on ATM and non-recurring debit card transactions without obtaining valid affirmative consent to do so, Defendant was not legally permitted to assess any overdraft

fees on one-time debit card or ATM transactions, and it has harmed Plaintiff and the Class Members by assessing overdraft fees on one-time debit card and ATM transactions.

121. As the result of Defendant's violations of Regulation E, 12 C.F.R. § 1005, *et seq.*, Plaintiff and customers of the Class are entitled to statutory damages, as well as attorneys' fees and costs of suit, pursuant to 15 U.S.C. § 1693m.

SECOND CAUSE OF ACTION

(Breach of the Account Agreement – Repeat NSF Fees on the Same Item)

122. The preceding allegations are incorporated by reference and re-alleged as if fully set forth herein.

123. Plaintiff and each of the Class Members entered into the Account Agreement, an example of which is attached hereto as Ex. 1, with Defendant covering the subject of NSF and overdraft fees. This contract was drafted by and is binding on Defendant.

124. Among other promises Defendant makes in the Account Agreement, Defendant promises that it will assess only a single NSF fee for an unpaid, returned item due to purported insufficient funds when, in practice, it charges a \$25 fee when an electronic item is first processed for payment and Defendant determines that there is not enough money in the account to cover the transaction, and then charges an additional NSF or overdraft fee if the same item is presented for processing again by the payee, even though the account holder took no action to resubmit the item for payment.

125. The Account Agreement specifically defines “[a]n ‘[i]tem’” (singular) as including:

a check, substitute check, purported substitute check, electronic item or transaction, draft, demand draft, remotely created item, image replacement document indemnified copy, ATM withdrawal or transfer, point-of-sale transaction, pre-authorized payment, automatic transfer, telephone-initiated

transfer, ACH transaction, online banking transfer or bill payment instruction, withdrawal slip, in-person transfer or withdrawal, cash ticket, deposit adjustment, any other instruction or order for the payment, transfer, or withdrawal of funds, and an image or photocopy of any of the foregoing.

(Ex. 1, at 19.) Moreover, throughout the Account Agreement, Defendant states that *an* NSF fee is assessed for *an* item, as alleged herein. Yet Defendant wrongfully treats a “retry” or “representment” of an item as a new and separate “item” justifying additional NSF or overdraft fees in violation of the Account Agreement.

126. Further, the Account Agreement along with the Fee Schedule fail to accurately describe the circumstances when Plaintiff and Class Members will be assessed an NSF fee.

127. Plaintiff and the Class Members have performed all conditions, covenants, and promises required by each of them on their part to be performed in accordance with the terms and conditions of the Account Agreement, except for those they were prevented from performing or which were waived or excused by Defendant’s misconduct.

128. Defendant breached the terms of the Account Agreement by, *inter alia*, assessing multiple fees for the same item.

129. As a proximate result of Defendant’s breaches, Plaintiff and the Class Members have been damaged in an amount to be proven at trial and seek relief as set forth in the Prayer below.

THIRD CAUSE OF ACTION

(Breach of the Account Agreement – Pay All, Next Day Return)

130. The preceding allegations are incorporated by reference and re-alleged as if fully set forth herein.

131. Plaintiff and each of the Class Members entered into the Account Agreement with Defendant covering the subject of NSF and overdraft fees. The Account Agreement was drafted by and is binding on Defendant.

132. Among other promises Defendant makes in the Account Agreement, it claims to process transactions daily. Yet, City National's practice during daily processing is to withdraw from an account the full amount of debit items and label them as overdrafts. However, after debiting the money from the account on day one under the guise of it being paid as an "overdraft," City National returns the item unpaid the following day and credits back the premature debit to the account and no money is actually ever debited from the account for that item. But by debiting the account holder's money in the interim even when the money is still in the account, it lowers the account balance making it more likely that subsequently processed items will be assessed overdraft or NSF fees.

133. The Account Agreement only describes an item as being returned unpaid. (*See*, Ex. 1, at 12.) When describing how non-sufficient funds transactions work in the absence of overdraft protection, it states if a customer has a \$50 balance and "write[s] a check for \$100, the Bank will return your check unpaid and charge your account *a fee* (in this example, \$25)." (*Id.*) It does not say it will first determine the item to be an overdraft and debit the funds from the account as if it is being paid, only to later reclassify it as a non-sufficient funds transaction the following day. In fact, throughout the agreement, it discusses non-sufficient funds transactions in the same context as overdrafts, which Defendant processes and posts on the day they are presented. Moreover, when discussing how items are processed in an account, the Account Agreement explains that processing occurs at the "end of a business day" and that transactions post to the account "during

nightly processing as the end of each business day.” (*Id.*, at 15.) A reasonable customer would not suspect that Defendant first processes items as overdrafts at the end of the business day, thus allowing it to debit funds from an account, only to recharacterize the transaction the following day as an NSF (meaning the money never should have been debited from the account). But by processing non-sufficient funds transactions in this manner, City National increases the likelihood that other transactions will be deemed overdrafts in the interim.

134. The Account Agreement inaccurately describes how non-sufficient funds transactions will be processed.

135. Plaintiff and the Class Members have performed all conditions, covenants, and promises required by each of them on their part to be performed in accordance with the terms and conditions of the Account Agreement, except for those they were prevented from performing or which were waived or excused by Defendant’s misconduct.

136. Defendant breached the terms of the Account Agreement by, *inter alia*, labeling and treating all transactions as overdrafts on the day of processing, and returning certain of the transactions as unpaid the following day when its contracts state otherwise.

FOURTH CAUSE OF ACTION

(Breach of the Covenant of Good Faith and Fair Dealing)

137. The preceding allegations are incorporated by reference and re-alleged as if fully set forth herein.

138. Plaintiff and each of the Class Members entered into the Account Agreement with Defendant covering the subject of NSF transactions. Defendant drafted and is bound by the Account Agreement. In the agreement, Defendant promised to charge only a single fee for an item. Yet Defendant assessed NSF and/or overdraft fees multiple times for the same item. Further, Defendant debited accounts for overdraft items even

though the items were returned the next day as unpaid when the Account Agreement said transactions were processed and posted daily.

139. Good faith is an element of every contract. Whether by common law or statute, all contracts impose upon each party a duty of good faith and fair dealing. Good faith and fair dealing, in connection with executing contracts and discharging performance and other duties according to their terms, means preserving the spirit—not merely the letter—of the bargain. Thus, the parties to a contract are mutually obligated to comply with the substance of their contract in addition to its form. Evading the spirit of the bargain and abusing the power to specify terms, constitute examples of bad faith in the performance of contracts.

140. The material terms of the Account Agreement therefore include the implied covenant of good faith and fair dealing, whereby Defendant covenanted that it would, in good faith and in the exercise of fair dealing, deal with Plaintiff and each Class Member fairly and honestly and do nothing to impair, interfere with, hinder, or potentially injure Plaintiff's and the Class Members' rights and benefits under the contracts.

141. Plaintiff and the Class Members have performed all conditions, covenants, and promises required by each of them on their part to be performed in accordance with the terms and conditions of the contracts, except for those they were prevented from performing or which were waived or excused by Defendant's misconduct.

142. Defendant breached the implied covenant of good faith and fair dealing based, *inter alia*, on its practices of assessing multiple fees for a single, unpaid returned item, or by assessing an overdraft fee on the same item that was previously assessed an NSF fee, and by debiting accounts for overdraft items one day and then returning the items unpaid the next day. Defendant could easily have avoided acting in this manner by

simply changing the programming in its software to charge a fee only once per item, or to process transactions as unpaid on the initial day of processing. Instead, Defendant unilaterally elected to and did program its software to charge multiple fees each time the same item was represented for payment by a merchant, and to prematurely debit transactions from an account when the following day they were to be returned, which maximized its overdraft and NSF fees. In so doing, and in implementing its overdraft and NSF fee programs for the purpose of increasing and maximizing overdraft and NSF fees, Defendant executed its contractual obligations, including any discretion it had, in bad faith, depriving Plaintiff and the Class Members of the full benefit of the Account Agreement.

143. As a proximate result of Defendant's breach of the implied covenant of good faith and fair dealing, Plaintiff and the Class Members have been damaged in an amount to be proven at trial and seek relief as set forth in the Prayer below.

FOURTH CAUSE OF ACTION
(Unjust Enrichment/Restitution)

144. The preceding allegations are incorporated by reference and re-alleged as if fully set forth herein.

145. As a result of the wrongful misconduct alleged above, Defendant unjustly received millions of dollars in overdraft and NSF fees.

146. Because Plaintiff and the Class Members paid the erroneous overdraft and NSF fees assessed by Defendant, Plaintiff and the Class Members have conferred a benefit on Defendant, albeit undeservingly. Defendant has knowledge of this benefit, as well as the wrongful circumstances under which it was conveyed, and yet has voluntarily accepted and retained the benefit conferred. Should it be allowed to retain such funds,

Defendant would be unjustly enriched. Therefore, Plaintiff and Class Members seek relief as set forth in the Prayer below.

FIFTH CAUSE OF ACTION
(Money Had and Received)

147. The preceding allegations are incorporated by reference and re-alleged as if fully set forth herein.

148. Defendant has obtained money from Plaintiff and the Class Members by the exercise of undue influence, menace or threat, compulsion or duress, and/or mistake of law and/or fact.

149. As a result, Defendant has in its possession money which, in equity, belongs to Plaintiff and the Class Members, and thus, this money should be refunded to Plaintiff and the Class Members. Therefore, Plaintiff and the Class Members seek relief as set forth in the Prayer below.

VIII PRAYER FOR RELIEF

WHEREFORE, Plaintiff and the Class pray for judgment as follows:

- a. for an order certifying this action as a class action;
- b. for compensatory damages on all applicable claims and in an amount to be proven at trial;
- c. for an order requiring Defendant to disgorge, restore, and return all monies wrongfully obtained together with interest calculated at the maximum legal rate;
- d. for statutory damages;
- e. for civil penalties;
- f. for an order enjoining the continued wrongful conduct alleged herein;

- g. for costs;
- h. for pre-judgment and post-judgment interest as provided by law;
- i. for attorneys' fees under the Electronic Fund Transfer Act, the common fund doctrine, and all other applicable law; and
- j. for such other relief as the Court deems just and proper.

Dated: January 14, 2021

Respectfully Submitted,

/s/Barrett T. Bowers

Barrett T. Bowers, OBA No. 30493
barrett@bowerslawok.com
THE BOWERS LAW FIRM
P.O. Box 891628
Oklahoma City, Oklahoma 73189
Telephone: (405) 727-7188

-and-

Richard D. McCune, CA Bar No. 132124*
rdm@mccunewright.com
David C. Wright, CA Bar No. 177468*
dcw@mccunewright.com
McCUNE WRIGHT AREVALO, LLP
3281 E. Guasti Road, Suite 100
Ontario, California 91761
Telephone: (909) 557-1250
Facsimile: (909) 557 1275

Emily J. Kirk, IL Bar No. 6275282*
ejk@mccunewright.com
McCUNE WRIGHT AREVALO, LLP
231 N. Main Street, Suite 20
Edwardsville, Illinois 62025
Telephone: (618) 307-6116
Facsimile: (618) 307-6161

Attorneys for Plaintiff Lisa Carter
and the Putative Class

**Pro Hac Vice* application to be submitted

DEMAND FOR JURY TRIAL

Plaintiff and the Class Members demand a trial by jury on all issues so triable.

Dated: January 14, 2021

Respectfully Submitted,

/s/Barrett T. Bowers

Barrett T. Bowers, OBA No. 30493
barrett@bowerslawok.com
THE BOWERS LAW FIRM
P.O. Box 891628
Oklahoma City, Oklahoma 73189
Telephone: (405) 727-7188

-and-

Richard D. McCune, CA Bar No. 132124*
rdm@mccunewright.com
David C. Wright, CA Bar No. 177468*
dcw@mccunewright.com
McCUNE WRIGHT AREVALO, LLP
3281 E. Guasti Road, Suite 100
Ontario, California 91761
Telephone: (909) 557-1250
Facsimile: (909) 557 1275

Emily J. Kirk, IL Bar No. 6275282*
ejk@mccunewright.com
McCUNE WRIGHT AREVALO, LLP
231 N. Main Street, Suite 20
Edwardsville, Illinois 62025
Telephone: (618) 307-6116
Facsimile: (618) 307-6161

Attorneys for Plaintiff Lisa Carter
and the Putative Class

**Pro Hac Vice* application to be submitted

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Agreement & Disclosure

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GENERAL ACCOUNT TERMS AND CONDITIONS

This Consumer Deposit Account Agreement and Disclosure (“Disclosure Booklet”), and the other agreements referred to in this Disclosure Booklet, including the CityNET Consumer Online Banking Agreement, Consumer Deposit Accounts Brochure, and the account opening documents for your account, and including any subsequent amendments and updates, make up the contract between you and City National Bank & Trust Company of Lawton, Oklahoma, that governs your account (“Agreement”).

By signing the account opening documents, requesting an account, or maintaining an account, you represent that you understand and agree to the terms and provisions of the Agreement.

In the event there is a conflict between the terms of (A) this Consumer Deposit Account Agreement and Disclosure and (B) any other agreement referred to, including the CityNET Consumer Online Banking Agreement, Consumer Deposit Accounts Brochure, or any account opening documents, the terms of the Consumer Deposit Account Agreement and Disclosure shall control.

Please carefully read the Disclosure Booklet and the other agreements referred to in this Booklet, including the CityNET Consumer Online Banking Agreement, Consumer Deposit Accounts Brochure, and the account opening documents for your account because these documents tell you your rights and obligations for your account and other products and services. You should keep these documents, including any subsequent amendments and updates, for future reference regarding your account and other products and services.

TERMS AND DEFINITIONS

- City National Bank & Trust Company of Lawton, Oklahoma, is referred to throughout the Agreement as “City National Bank,” “CNB,” the “Bank,” “Us,” and “We.”
- “Account” or “Accounts” shall mean your CNB checking, savings, loan, or certificate of deposit accounts and other CNB products.
- “You,” “your,” and “yours” in the Agreement refer to the account holder(s) and authorized signer(s) of an account, any person that is authorized to access account information, and anyone else with the authority to deposit, withdraw, or exercise control over the funds in the account.
- “CityNET” refers to the personal banking online service that City National Bank makes available to its customers, including internet banking, mobile banking and text banking services.

EXAMINING STATEMENTS AND REPORTING PROBLEMS

You agree to promptly and carefully review your account statement and any items reflected on the statement. You must report problems or unauthorized transactions to the Bank immediately. **Call us during our business hours at 1-866-385-3444, write to us at PO Box 2009, Lawton, OK 73502-2009, or visit any CNB branch.** Our customer service business hours to report your issue or concern are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays. You agree that 60 days after the Bank sends a statement or makes items available either by mail or electronically is the maximum reasonable amount of time for you to review your statement or items and report any problem or unauthorized transaction related to a matter shown on the statement or items. This section does not apply to electronic fund transfers that are subject to Regulation E, the disclosure for which can be found in the section of this *Disclosure Booklet* titled *Disclosures for Electronic Fund Transfers-Your Rights and Responsibilities*.

If you do not notify City National Bank in writing of suspected problems or unauthorized transactions within 60 days after CNB sends your statement or makes items available, you agree that you cannot make a claim against the Bank relating to the unreported problems or unauthorized transactions, regardless of the care or lack of care the Bank may have exercised in handling your account. In addition, if you fail to report an unauthorized transaction on your account within 60 days following the closing date of the statement containing information about the first unauthorized transaction, the Bank is not liable to you for subsequent unauthorized transactions on your account by the same person.

If there are any unauthorized transactions on your account (such as missing, stolen, or unauthorized checks), City National Bank may require you to close your current account and open a new one. If you do not do so, CNB is not liable to you for subsequent losses or damages on the account due to forgery, fraud, or other unauthorized use. When you open a new account, you are responsible for notifying any third parties that need to know your new account number.

If you report to the Bank that a forgery, alteration, or other unauthorized transaction has occurred on your account, you agree to cooperate with the Bank in the investigation and prosecution of your claim and any attempt to recover funds. You agree to provide the Bank with an affidavit containing the information the Bank requires concerning the transaction. City National Bank may deny your claim if you fail to provide the Bank with any affidavit it requires. You also agree to assist CNB in identifying and prosecuting suspected wrongdoers.

You agree that the Bank has a reasonable period of time to investigate the facts and circumstances surrounding any claimed loss and that the Bank has no obligation to provisionally credit your account. City National Bank’s

maximum liability is the lesser of your actual damages proved or the amount of the missing deposit or forgery, alteration, or other unauthorized withdrawal, reduced in all cases by the amount of the loss that could have been avoided by your use of ordinary care. The Bank is not liable to you for special or consequential losses or damages of any kind, including loss of profits and opportunity, or for attorneys' fees you incur.

CUSTOMER INFORMATION

MONITORING OF COMMUNICATIONS

You agree on behalf of yourself, your employees and agents that we may monitor and record your telephone and electronic communications in connection with your account, including but not limited to the use of CityNET Online Banking, at any time, without further notice to you or any party to the communication.

CUSTOMER IDENTIFICATION POLICY

City National Bank is required by law, including the USA PATRIOT ACT, to obtain, verify, and record identification and other information about you while processing your account application.

Identification and other information will be requested of individuals opening new accounts and those with existing accounts. In all cases, the protection of our customer's identity and confidentiality is City National Bank's pledge to you. We will rely on the information that you provide until you notify City National Bank of a change in that information, and we have had a reasonable time to act on that change.

In the event that we are unable to verify the information you provide, a CNB representative may call you at the phone number you provided to further verify your information. We may restrict or prohibit further use of your account if you fail to comply with requirements necessary to verify your identity. If we are unable to verify your identity, we may close your account.

We may also request from you, either at the time you open a new account or by your request to use the telephone banking system, a Security Access Code (SAC). This code must be a confidential code that you do not share with anyone other than a City National Bank employee by phone or in person as additional verification of your identity.

CREDIT REPORTS AND FINANCIAL INFORMATION

You authorize City National Bank to obtain credit reports and other information about you from credit reporting agencies and other third parties as the Bank may deem necessary from time to time. You agree to provide us with a financial statement or information on your financial condition upon our request.

NOTICE OF CHANGE OF INFORMATION, DEATH, OR INCOMPETENCE

You must always keep us informed of any address, telephone, or email changes. If CNB receives notice from the United States Post Office or one of its agents that your address has changed, City National Bank may change your address on its records to the address specified by the post office, and the Bank may send statements and notices regarding your account to that new address.

You must update us if you have a name change, including being aware that the Social Security Administration must be informed as well, or you may incur an Incomplete TIN Verification Fee. See the Bank's Consumer Deposit Account Brochure for a schedule of current fees.

You must notify the Bank promptly if any account holder or authorized signer on your account dies or is declared incompetent by a court. CNB may place a hold on your account and refuse to accept deposits or permit withdrawals when an account holder dies or is declared incompetent. The Bank may hold any funds in your account until the Bank knows the identity of the successor. If a deposit that is payable to the deceased account holder is credited to the account after the date the deceased account holder died, including salary, pension, Social Security and Supplemental Security Income, the Bank may debit the account for the deposit and return it to the payer.

DISCLOSURE OF ACCOUNT INFORMATION TO THIRD PARTIES

We may release information about your accounts and the transactions you perform to third parties as required or permitted by law or in accordance with customary banking practices, including for the following:

- When it is necessary for completing transfers; or
- In order to verify the existence and condition of your account with us upon request by a third party, such as a credit bureau or merchant; or
- In order to comply with government orders or legal processes; or
- In accordance with your instructions or written permission.

PRIVACY POLICY AND NOTICE

City National Bank & Trust will disclose our privacy practices as required by law and will re-disclose when those practices change. We reserve the right to modify them as needed, along with related provisions, at any time. You may view our privacy policy at <https://www.cnb1901.com>. A copy of our privacy policy is also available through CityNET. Or, you may **call us during our business hours at 1-866-385-3444, write to us at PO Box 2009, Lawton, OK 73502-2009**, or visit any CNB branch. Our customer service business hours to report your issue or concern are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays.

OWNERSHIP OF ACCOUNTS

City National Bank determines the ownership of accounts and beneficiary designation, if any, from the information in its records. We may rely on the information you provide. Changes you request to your account are not effective until the Bank has had a reasonable time to act. We make no representations as to the appropriateness of the account ownership selection or as to the appropriateness and effect of beneficiary designations, if any, except as such designation may determine to whom we pay the account funds.

FORM OF OWNERSHIP

You are solely responsible for selecting the form of ownership of your account and for meeting any applicable requirements for establishing the desired form of ownership.

INDIVIDUAL ACCOUNT

An individual account is an account owned by one person.

JOINT ACCOUNTS

Joint accounts are accounts owned by two or more persons. Joint accounts cannot be owned as tenants by the entirety or tenants in common but must be held as joint tenants with rights of survivorship. Each owner's intent is that when one owner dies the balance in the account (subject to any previous pledge to which we have agreed) will belong to the survivor(s). If two or more of you survive, the surviving account owners will own the balance in the account as joint tenants with rights of survivorship and not as tenants in common. For any joint account where a joint account holder has died, City National Bank reserves the right to not release funds in the account until sufficient legal documentation is delivered to CNB, and the Bank has had a reasonable opportunity to review the documentation provided. Each joint account holder authorizes any other joint account holder to withdraw funds, make deposits, transact on the account, or close the account without the consent of any other joint account holder. Bank may rely on the instructions of any one joint account holder without liability to any other joint account holder. Each joint account holder is jointly and severally liable to Bank for: (1) all fees and charges assessed against the account; (2) all amounts owed to Bank on the account; and (3) all costs and liabilities related to this Agreement or the account. This liability will apply whether such fees, charges, amounts, costs, and liabilities are caused by you or by another person with access to your account. Each joint account holder authorizes the Bank to exercise set-off and enforce its security interest in the entire joint account, even though only one of the joint account holders is the debtor, and irrespective of who contributed the funds to the account. CNB may also, to the extent permitted by law, pay all or any part of the funds in the account to a court or governmental agency upon receipt of a garnishment order, tax levy, or similar legal process identifying any one of the joint account holders.

PAYABLE-ON-DEATH ("POD") ACCOUNTS

You may designate a deposit account to be payable on your death to a designated beneficiary or beneficiaries. Payment to the POD beneficiary or beneficiaries is subject to the payment of account proceeds to any secured party with a valid security interest in the account and the Bank's right to charge the account for any amount the deceased owner, joint account holder, or payee owes to the Bank. See the Security Interest and Right of Set-Off section for additional information. Furthermore, the payment to the POD beneficiary is subject to any other applicable legal requirements that may require the Bank to pay claims or obligations of the deceased person's estate.

A designated POD beneficiary can be a trust, an individual, or a non-profit organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3). If there is only one primary beneficiary designated on a deposit account, and that beneficiary is an individual, the account owner may designate one or more contingent beneficiaries to whom the funds shall be paid if the primary beneficiary is not living when the last surviving owner of the account dies.

The primary beneficiary or beneficiaries of a POD account acquire the right to withdraw only if: (1) all persons creating the account die, and (2) the beneficiary is then living. If, at the death of the owner(s) of your account, one or more of the primary beneficiaries are not living, the deceased beneficiary's estate acquires ownership of that beneficiary's share of the account. If two or more beneficiaries are named and survive the death of all persons creating the account, such beneficiaries will own this account in equal shares, without right of survivorship. The

person(s) creating the POD account reserve the right to: (1) change the beneficiaries, (2) change the account type, and (3) withdraw all or part of the account funds at any time.

TRUST ACCOUNTS

TOTTEN TRUST ACCOUNTS - A Totten Trust Account is an informal trust account, reflected in our records, but without a written trust agreement. These may be referred to as “in trust for” or “fbo” accounts. A deposit to an account at the Bank made in trust for another, with no further notice to the Bank of the existence or terms of a legal valid written trust, shall be deemed to constitute a Totten Trust and administered pursuant to the provisions of Okla. Stat. Title 6, Section 902(A). In the event of the death of the trustee, the account may be paid to the person or persons for whom the deposit was made. A revocation of such a trust may only be made in writing to the Bank, and the Bank shall not incur any liability for the payment of the funds pursuant to the trust unless the Bank receives written notice of revocation.

FORMAL TRUST ACCOUNTS - A formal trust account is an account held by one or more trustees for the benefit of one or more beneficiaries according to the terms of a written trust agreement. City National Bank may request such documentation from the trustee or trustees as the Bank deems necessary and advisable to set-up and maintain a trust account, including but not limited to copies of the trust agreement, memorandums of trust, or certificates of trust. Notwithstanding the review of any trust documentation, the Bank acts only as custodian of the trust funds in the account and is under no duty or obligation to act as trustee or to inquire as to the application of the funds held in the trust account or the powers or duties of the trustees. The trustee or trustees opening the account, in their capacity as trustee and individually, jointly and severally agree to indemnify and hold the Bank harmless from and against any and all loss, costs, damage, liability, or exposure, including reasonable attorney’s fees we may suffer or incur arising out of any action or claim by any beneficiary or other trustee with respect to the authority or actions taken by the trustee(s) in handling or dealing with the trust account. City National Bank reserves the right to require a Certificate of Trustee and to accept and administer the trust account under the terms and provisions of Okla. Stat. Title 6, Section 902(B).

BUSINESS ACCOUNTS

A business account is payable only to or on the order of the business and not to any individual director, shareholder, member, or partner of the business except as they may be a payee on a check or other item drawn on the account. We may require the governing body of the legal entity opening the account to give us a separate authorization telling us who is authorized to act on its behalf. We will honor the authorization until we actually receive written notice of a change from the governing body of the legal entity. Earnings in the form of interest, dividend, or credits will be paid only on collected funds, unless otherwise provided by law or our policy.

If the account holder is a corporation, unincorporated association, limited liability company, limited liability partnership, partnership, sole proprietorship, or other entity holding an account in a capacity other than an individual capacity, each person signing the signature card or other account documents represents and agrees that:

- They are fully authorized to execute all documents in their stated capacity;
- They have furnished all documents necessary to demonstrate that authority;
- They will furnish any other documents in such form as the Bank may request from time to time;
- All documents delivered to the Bank in connection with the business account are true, accurate, complete, and will be kept up to date and may be conclusively relied on by the Bank; and
- The Bank will have no responsibility or duty, beyond those required by law, to monitor the business account or the use of funds paid from it, nor any liability for any act or omission by any such person.

For additional information on the terms and provisions related to business accounts, businesses should call the Treasury Cash Management Department at 1-580-354-1199 or toll-free at 1-844-861-1299 or visit a City National Bank branch.

OTHER NON-PERSONAL ACCOUNTS

If an account is opened as an estate account, guardianship account, conservatorship account, custodial account (including a Uniform Transfers to Minors Act “UTMA” or similar account), donation assistance account or other similar type of account, the Bank reserves the right to require such documentation and authorizations as it may reasonably deem necessary or appropriate to satisfy the Bank that the person requesting or directing the withdrawal of funds from the account has the authority to do so. The relationship between you and the Bank for an estate, guardian, conservatorship, custodian or other similar account is a debtor/creditor relationship. The Bank has no duty or obligation, beyond those required by law, to monitor the account or the status of the designated fiduciaries or beneficiaries; however, should the Bank conclude you are not complying with applicable laws and regulations, we will consider this a conflicting claim.

See the section titled *Conflicting Claims About Your Account* for more information.

TRANSFER AND ASSIGNMENT OF ACCOUNT OWNERSHIP

You may not transfer or assign ownership of an account without CNB's express written consent. The Bank may require that the account be closed and a new account opened in order to transfer or assign ownership. A transfer that results from death, incompetence, marriage, divorce, attachment, or otherwise by operation of law will not be binding on the Bank until the Bank has received sufficient documentation of the transfer as determined by the Bank.

City National Bank is not liable for the validity or sufficiency of any assignment of the account. An assignment will be binding on CNB only if it is in a written instrument signed by all account holders and after the Bank acknowledges the assignment in writing. The assignment will be subordinate to and subject to any right of the Bank to collect from the account any debt you owe the Bank. The Bank may require that the assignment be notarized.

AUTHORIZED SIGNERS, AGENTS AND ATTORNEYS-IN-FACT

An authorized signer is merely designated to conduct transactions on the owner's behalf. Your account opening record, a signature on a check you have used to make a withdrawal from the account, or other documentation provided to the Bank identifies who is authorized to make withdrawals, write checks, transfer funds, stop payments, obtain ancillary services, and otherwise give City National Bank instructions regarding your account. The Bank may act on the signature or instruction of any one of the authorized signers on your account.

The Bank undertakes no obligation to monitor transactions initiated by an authorized signer to determine that they are on the owner's behalf.

If you want to grant someone power of attorney over your account, the Bank may ask that you complete a specific power of attorney form, or the Bank may accept any power of attorney form that it believes was executed by you and is valid under applicable state law. The Bank may act on instructions the Bank receives under that form from your agent without any liability to you. You agree to reimburse the Bank for all claims, costs, losses, and damages the Bank may incur in accepting and acting on any power of attorney form that the Bank believes is executed by you. In some cases, the Bank may require that the agent or attorney-in-fact confirm in an affidavit that the power has not been revoked or terminated, that the power met applicable legal requirements when executed, and that the principal that executed the power is not deceased or incapacitated at the time the power is offered.

Additionally, the Bank may require that the power be recorded or registered in the appropriate county records. The Bank may also restrict the types or sizes of transactions it permits an agent or attorney-in-fact to conduct on your account. The Bank may require a separate form for each agent or attorney-in-fact and for each account for which you want to grant the power of attorney. If you do not present the power to the Bank yourself, or your agent or attorney-in-fact does not present the original power to the Bank, the Bank may refuse to honor any power of attorney you grant, with or without cause, and with no liability to you. When the Bank accepts a power of attorney, the Bank may continue to recognize the authority of your agent or attorney-in-fact until the Bank receives written notice from you of the revocation of the power and has had a reasonable time to act on the notice.

Unless otherwise specifically authorized by this Agreement or by the Bank, you will not allow others to provide instructions to us (e.g., debit card, ATM or ACH entries) on your behalf without our prior written consent. You will be solely responsible for the acts and omissions of such agents. You agree to indemnify, defend and hold us harmless from any actions, claims, proceedings, damages, losses and costs which you or we incur as a result of their actions or omissions.

CONFLICTING CLAIMS ABOUT YOUR ACCOUNT

If there is any uncertainty regarding the ownership of an account or its funds, or if there are conflicting demands over an account's ownership or control, or if the Bank is unable to determine any person's authority to give instructions, or if the Bank believes a transaction may be fraudulent, unauthorized, irregular or suspicious, or may violate any law, the Bank may, at its sole discretion and without liability to you:

- Freeze the account and refuse transactions until the Bank receives proof (in form and substance satisfactory to the Bank) of each person's right and authority over the account and its funds;
- Put a hold on the account balance or transaction amount under review until such review is completed;
- Refuse transactions and return checks, marked "Refer to Maker" (or similar language);
- Modify, restrict, or disable access to any bank product or service;
- Require signatures of all authorized signers for the withdrawal of funds, the closing of an account, or any change in the account regardless of the number of authorized signers on the account;
- Request instructions from a court of competent jurisdiction at your expense regarding the account or transaction;
- Continue to rely on any current signature cards and other account documents;

- Honor the competing claim upon receipt of evidence the Bank deems satisfactory to justify such claim; or
- Close the account and send payment for the balance in the account, payable to you or to you and each claimant, to the address of record on the account.

The Bank is not obligated to assert any of the rights set out above or to deny a transaction. The Bank is not required to determine whether a dispute has merit in order to exercise any of the rights set out above. You are liable for all expenses and the fees the Bank incurs, including attorneys' fees, and the Bank may charge them directly to your account.

PROTECTING AND MANAGING YOUR ACCOUNT

GUARDING AGAINST IDENTITY THEFT

If you're a victim of identity theft, place a fraud alert on your credit reports and review your reports. Fraud alerts can help prevent an identity thief from opening any more accounts in your name. Contact the toll-free fraud number of any of the three nationwide consumer reporting companies to place a fraud alert on your credit report. You need to contact only one of the three companies to place an alert. The company you call is required to contact the other two, which will then place an alert on their versions of your report.

TransUnion: 1-800-680-7289; www.transunion.com; Fraud Victim Assistance Division, PO Box 6790, Fullerton CA 92834-6790

Equifax: 1-800-525-6285; www.equifax.com; PO Box 740241, Atlanta GA 30374-0241

Experian: 1-888-EXPERIAN (397-3742); www.experian.com; PO Box 9554, Allen TX 75013-9554

Once you place the fraud alert on your file, you are entitled to order free copies of your credit reports; if you ask, only the last four-digits of your Social Security Number will appear on your credit reports. Once you get your credit reports, review them carefully. Look for inquiries from companies you have not contacted; accounts you did not open; and debts on your accounts that you cannot explain. Check that information like your Social Security Number, address, and name or initials are correct. If you find fraudulent or inaccurate information, get it removed. See the Federal Trade Commission's comprehensive identity theft recovery guide, **Take Charge: Fighting Back Against Identity Theft**, at www.ftc.gov/idtheft for additional information. Continue to check your credit reports periodically, especially for the first year after you discover the identity theft, to make sure no new fraudulent activity has occurred.

Skilled identity thieves use a variety of methods to steal your personal information, including, but not limited to:

Dumpster Diving - They rummage through trash looking for bills or other papers with your personal information on it.

Skimming - They steal credit/debit card numbers by using a special storage device when processing your card.

Phishing - They pretend to be financial institutions, companies or government agencies, and send email or pop-up messages to get you to reveal your personal information.

Hacking - They hack into your email or other online accounts to access your personal information, or into a company's database to access its records.

"Old-Fashioned" Stealing - They steal wallets and purses; mail, including bank and credit card statements; pre-approved credit offers; and new checks or tax information. They steal personnel records from their employers, or bribe employees who have access.

PREVENTATIVE MEASURES TO PROTECT YOU

- Always keep your Visa Debit Card PIN and CityNET Online Banking passwords confidential. Do not write your PIN or passwords down.
- Always keep your Security Access Code (SAC) confidential and only share your SAC with a City National Bank employee when requested for identification purposes.
- Select passwords that would be difficult for another person to decipher. Use a combination of letters, symbols and numbers.
- Keep your check register up-to-date to track how much money is in your account.
- Review your statements, notices, and correspondence from us and notify us immediately of any discrepancies. Keep accurate records of your transactions and reconcile your statements regularly.
- Use Text Banking, CityNET Online Banking, Mobile Banking or Telephone Banking to monitor your account.
- Call us if your new check order or Visa debit card does not arrive within a reasonable period of time.

Do not pre-print your driver's license or social security number on your checks. Write and sign your checks clearly to deter forgeries. Store blank checks in a safe place, do not pre-sign blank checks, and destroy by shredding old checks.

Please carefully read the Disclosures Booklet and the other agreements referred to in this Booklet, including the CityNET Consumer Online Banking Agreement, Consumer Deposit Accounts Brochure, and the account opening documents for your account, because these documents tell you your rights and obligations for your account and other products and services. You should keep these documents, including any subsequent amendments and updates, for future reference regarding your account and other products and services. However, additional copies are available upon your request. **Call us during our business hours at 1-866-385-3444 or write to us at PO Box 2009, Lawton, OK 73502-2009, or visit any CNB branch.** Our customer service business hours to report your issue or concern are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays.

BALANCE YOUR CHECKBOOK

Even if you don't carry a checkbook or write many checks, it is still important to balance your checkbook. Learning how to balance (or reconcile) your account is easy. It only takes a few extra minutes and dedication to develop good account management habits. By writing down every transaction as it occurs (including any fees, such as ATM fees) in your check register, you will have a running tally of what your current Bank account balance should be. This can be useful when you want to write a check, or withdraw cash, and you need to know whether you have enough money in the account to cover it. See the Bank's Consumer Deposit Account Brochure, available at all City National Bank locations, for a schedule of current fees.

Balancing your checkbook every month helps you:

- Keep track of your money
- Catch mistakes
- Avoid overdrafts

TRACK YOUR TRANSACTIONS

Part of responsible financial management is good record keeping. CityNET Online Banking can always be your "go to" when it comes to monitoring your transaction history and knowing your current account balance, but it is just as important for you to keep a hard copy of your finances for your own day-to-day records.

Record all transactions you make in your check register, including online bill payments and Visa Debit Card purchases, as you make them. If pen and paper is a little old-fashioned for you, there are mobile check register applications available for some mobile devices. Whether you use the latest technology or go the traditional route, knowing how much money you have in the bank will help you stay on track and avoid any unnecessary fees.

The name "check register" can be slightly misleading – remember that it is not JUST a place to track the checks you write. In order to be a useful tool, you should ALSO record your other transactions in your check register – including Visa Debit Card transactions, ATM withdrawals, bank deposits, and any fees. See the Bank's Consumer Deposit Account Brochure, available at all City National Bank locations, for a schedule of current fees.

BALANCE YOUR ACCOUNT

Once a month, your bank account statement arrives in the mail, or you get a notice that it is available to you online. If you have tracked all of your transactions over the course of the month, you will find that they match up with what is on your statement when you balance, or reconcile, your account.

Balancing your account only takes about 5 to 10 minutes and is one of the best money management habits you can have. Simply go through your statement, look at each transaction and make sure everything on your statement matches what is in your check register. You can check off the items in your check register that match your statement.

If you find something on your statement that does not match your check register, take a minute to try to figure out why. Did you forget to put something in your register? Did you mix up the numbers in one of your figures? Did the Bank make an error? Although it is rare, it can happen occasionally.

We encourage you to balance your bank account statement with our step-by-step Account Balancing Worksheet that you will find included in your statement each month.

PRE-AUTHORIZED OVERDRAFT TRANSFERS

An overdraft doesn't necessarily mean you don't have money. It could simply mean that the money you need is in another account. Pre-Authorized Overdraft Transfers are a convenient way to transfer funds from another CNB account into your checking account before it becomes overdrawn. Funds may be transferred from another account such as a savings account, money market account, or additional checking account.

FEATURES OF PRE-AUTHORIZED OVERDRAFT TRANSFERS

- Automatically transfer funds from another CNB account to your checking account before the account becomes overdrawn;
- Ensure your bill and other transactions are paid as scheduled; and
- Decrease the risk of fees, such as late or returned payment fees from merchants.

IMPORTANT INFORMATION

One transfer is posted to your account during nightly processing at the end of the business day. Pre-Authorized Overdraft Transfers are completed in increments of \$100 and are subject to a \$5 fee. Funds may be transferred in a lesser amount according to the available balance of the account to be debited. Transfers into your checking account are posted with Deposits and Other Credits, before any Withdrawals or Debit Transactions. Overdraft Protection will be utilized prior to Pre-Authorized Overdraft Transfers when an account has both Overdraft Services set up on the account.

Certain account types have restrictions, such as on the number of withdrawals or transfers that can be made on a monthly basis. Review this Disclosure Booklet and your Consumer Deposit Account brochure. **For additional information, you may call us during our business hours at 1-866-385-3444 or write to us at: PO Box 2009, Lawton, OK 73502-2009, or visit any CNB branch.**

HOW IT WORKS

Let's say that you have \$50 dollars in your checking account, but your car payment of \$310 is scheduled to be posted, which would cause your account to become overdrawn. During nightly processing, when transactions are sorted into groups before they are posted to your account, it is determined that you have already set-up Pre-Authorized Overdraft Transfers from your savings account. So, \$300 would be transferred from your savings account to your checking account. Your checking account would not become overdrawn and your account would not incur an overdraft fee; however, the transfer would be subject to the \$5 fee (reflected on your statement as a Sweep Transaction Charge).

REQUIREMENTS

- The customer must enroll in Pre-Authorized Overdraft Transfers before the account becomes overdrawn.
- The transfers must be made from a CNB account, such as a savings account, money market account, or additional checking account to a CNB checking account.

HOW TO ENROLL

To enroll in Pre-Authorized Overdraft Transfers, visit your nearest City National Bank branch or call us during our business hours at 1-866-385-3444.

See the section titled *Posting Order Examples* in Supplement A to learn more about how transactions post to your account and how they will appear on your periodic statement.

See the section titled *Supplement B – Overdraft Protection* for more information about Overdraft Protection options.

OVERDRAFT PROTECTION & NON-SUFFICIENT FUNDS

Overdrawing your account (spending more money than is in your account) can be a costly mistake. An overdraft occurs when a transaction is posted to an account which causes the available balance to be less than \$0. It's always better not to overdraw your account in the first place, but if you occasionally have trouble tracking the balance in your account and have ever overdrawn your account, you may want to consider Overdraft Protection.

Overdraft Protection is not a free ticket to spend more money than is in your account, but it can help in the event of an inadvertent overdraft. There is no fee for having Overdraft Protection on your account; you are only charged for this service if you overdraw your account. The merchant or retailer to whom you made the payment may also charge you a fee (typically \$25 to \$50) for the transaction that was returned, in addition to what you still owe them from the original purchase.

FEATURES OF OVERDRAFT PROTECTION

It is never a good idea to overdraw your account. But for those times when you make a mistake and become overdrawn, having Overdraft Protection may help:

- Ensure your bills and other transactions are paid as scheduled and

- Decrease the risk of fees, such as late or returned payment fees, from merchants

HOW OVERDRAFT PROTECTION WORKS

Suppose you do not have an Overdraft Protection limit and your account balance is \$50. If you write a check for \$100, the Bank will return your check unpaid and charge your account a fee (in this example, \$25) for writing a check for more money than was available in your account. In most cases the merchant or retailer that you wrote the check to will also charge you a fee (in this example, \$25). This means that you have now incurred fees of \$50 (\$25 at the Bank and \$25 at the merchant or retailer) for a check that wasn't even paid.

If you enroll in Overdraft Protection and were approved for a \$200 Overdraft Protection limit, then when transactions are processed at the end of the business day, it would be determined that your account balance is only \$50 but with your \$200 Overdraft Protection limit, you are able to overdraw your account up to \$200. This means that the check would be paid. However, the transaction caused your account to become overdrawn, so your account would be charged a \$25 overdraft fee. In this example, you would have incurred fees of \$25 compared to \$50 in the prior example in which you did not have an Overdraft Protection limit. Additionally, you avoided being charged any merchant or retailer related fees.

When you use your Overdraft Protection limit, you must remember to subtract the overdraft fee and the transaction amount from your account balance. In the example above you would have subtracted \$125 from your account: \$100 (the amount of the check) plus \$25 (the amount of the overdraft fee). Your account would be overdrawn by \$75.

Every debit item that is posted to an overdrawn account will be subject to an overdraft fee of \$25. Your account must be brought to a positive balance within 30 days of the first overdraft for at least 1 business day or Overdraft Protection will be suspended from your account.

Overdraft Protection should not be viewed as an encouragement to overdraw your account. As always, we advise you to manage your finances responsibly.

See the section titled *Posting Order Examples* in Supplement A to learn more about how transactions post to your account and how they will appear on your periodic statement.

See the section titled *Supplement B – Overdraft Protection* for more information about Overdraft Protection options.

HOW TO ENROLL

If you choose to enroll in Overdraft Protection, visit your nearest CNB branch or call us during our business hours at 1-866-385-3444. You must make an affirmative consent to enroll in Overdraft Protection. An Overdraft Protection limit will not be placed on your account unless qualifications are met. Limits are, in part, based upon initial and regular deposit activity. If an Overdraft Protection limit is added to your account, you will be notified, in writing, of the effective date and the limit. City National Bank periodically reviews accounts for appropriate Overdraft Protection limits and notifies customer of any changes to their limit.

Overdraft Protection is available on most consumer checking accounts when the customer is over 18 years of age, all account relationships are in good standing, and the account ownership style is individual or joint with or without a designated POD.

You may un-enroll from Overdraft Protection at any time by contacting us at 1-866-385-3444 or writing to us at City National Bank, Attn: Overdraft Protection Department, PO Box 2009, Lawton OK 73502-2009. Our customer service business hours are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays.

USING OVERDRAFT PROTECTION WITH YOUR VISA DEBIT CARD

Customers with a Visa Debit Card who have made an affirmative consent to enroll in Overdraft Protection have additional options regarding overdrafts. When making Visa Debit Card or ATM transactions, the following rules apply.

If you would like to access your Overdraft Protection for everyday Visa Debit Card transactions, you must choose, by "opting-in", for the Bank to authorize and pay these items. Checks or bill payments that are set up to be paid on a recurring basis with your Visa Debit Card, such as your mortgage, rent or utilities, do not require an "opt-in" to be paid using Overdraft Protection.

If you do not "opt-in", then we cannot allow access to your Overdraft Protection for everyday Visa Debit Card transactions. These transactions will be declined when you don't have enough money in your account and you will not be charged a non-sufficient item fee; however, you may be charged a Visa Debit Card denial fee. See the Bank's Consumer Deposit Account Brochure, available at all City National Bank branches, for a schedule of current fees. If

you choose not to “opt-in” initially, you can do so later.

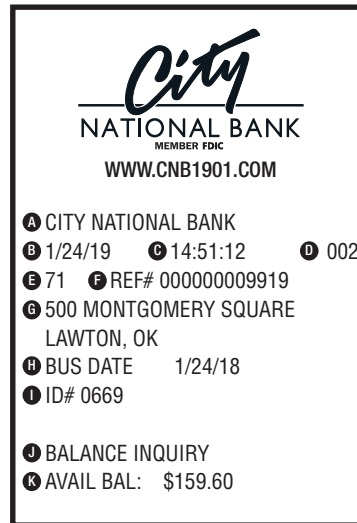
You may opt-in or opt-out of this service 24 hours a day, 7 days per week, by calling our Automated Telephone Service and selecting the “Debit Card Services” option.

You may un-enroll from Overdraft Protection and/or opt-out of the payment for everyday Visa Debit Card transactions at any time by contacting us at 1-866-385-3444 or writing to us at City National Bank, Attn: Overdraft Protection Department, PO Box 2009, Lawton OK 73502-2009. Our customer service business hours are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays

UNDERSTANDING YOUR CNB ATM RECEIPT & OVERDRAFT PROTECTION

LEGEND

- A. Bank Name
- B. Transaction Date
- C. Time
- D. ATM #
- E. Transaction Type Code
- F. Record #
- G. Machine Address
- H. Date Transaction Will Post
- I. Last 4 of Card Number
- J. Transaction Type
- K. Available Balance without Overdraft Protection



Your available Overdraft Protection limit will not show as part of your available balance at an ATM; however, the machine will allow you to overdraw your account up to your available Overdraft Protection limit. If your account balance is zero, the ATM receipt may not list a dollar amount on the available balance line detailed above.

IMPORTANT INFORMATION

Every debit item, including checks written, ATM withdrawals, ACH debits, point of sale debit card transactions or any other electronic transaction, on an overdrawn account will be charged an overdraft fee. However, you must “opt-in” (as described above) to access your Overdraft Protection limit for your everyday Visa Debit Card transactions. **Each overdraft paid or returned will be subject to a fee (\$25), not to exceed five overdraft fees per day (\$125), and will be deducted from your available Overdraft Protection limit. Any overdraft items in excess of your Overdraft Protection limit may be paid or returned at the Bank’s discretion and assessed a fee. Even if Overdraft Protection is available, this does not guarantee all items that overdraw the account will be paid.** See the Bank’s Consumer Deposit Account Brochure, available at all City National Bank branches, for a schedule of current fees.

Each overdraft, including the overdraft fees, should be paid in full within thirty (30) days after the overdraft first occurs. The account must remain positive for at least 1 business day or Overdraft Protection will be suspended. In addition, Overdraft Protection will be suspended for excessive use if 10 or more items are returned in a statement cycle. A suspension is defined as the removal of an Overdraft limit until the account is returned to a positive balance and the account must remain positive for 5 days.

The Bank will promptly notify you, in writing, under the following circumstances:

- An Overdraft fee is assessed;
- Your account remains overdrawn for an extended period of time;
- Overdraft Protection is suspended from your account; or
- To secure repayment of any overdraft, fee, or services charges owed to the Bank.

Notices will be sent by mail, or electronically, if you have opted to receive electronic communications. In addition, monthly account statements which include overdraft and return item fees for the statement cycle and year to date will be provided to you.

TIPS TO AVOID OVERDRAFT AND NON-SUFFICIENT FUNDS FEES

- Practice responsible account management, keep track of your transactions and know how much money is

in your account.

- Avoid using Overdraft Protection as a short-term loan. It is a costly form of credit.
- Record checks and all other transactions when you make them. Don't forget to record spending by other account owners/signers.
- Pay special attention to record your ATM withdrawals and fees, Visa Debit Card purchases, and other online payments.
- Make sure you record all automatic payments (such as utility, insurance & loan payments) and account fees in a timely manner.
- Remember that some checks and automatic payments may not have cleared your account yet.
- Review your monthly account statements. Between statements, use Text Banking, CityNET Online Banking, Mobile Banking or Telephone Banking to check your balance and view which payments have cleared.
- When possible, keep extra funds in your checking account.
- Ask us how to set up a Pre-Authorized Overdraft Transfer from another account at City National Bank.
- Use the following low-cost tools available to you to help manage your account and transfer funds when needed: Text Banking, CityNET Online Banking, Mobile Banking or Telephone Banking.
- Limit the number of times you access your Overdraft Protection limit. Withdraw all funds needed in one transaction at a CNB branch or CNB ATM.
- Remember that the order in which transactions post may affect the total number of fees that are incurred. Transactions may not be processed in the order in which they occurred.

See the section titled Posting Order Examples in Supplement A to learn more about how transactions post to your account and how they will appear on your periodic statement.

OVERDRAFT PROTECTION TERMS AND CONDITIONS

You must make an affirmative consent to enroll in Overdraft Protection; however, Overdraft Protection will not be placed on your account unless qualifications are met. Limits are, in part, based upon initial and regular deposit activity. City National Bank periodically reviews accounts for appropriate Overdraft Protection limits and notifies customers of any changes to their limit. If you would like to access your Overdraft Protection for everyday Visa Debit Card transactions, you must choose, by "opting-in" for the Bank to authorize and pay these items.

Overdraft Protection should not be viewed as an encouragement to overdraw your account. As always, we encourage you to manage your finances responsibly. You agree to maintain an active checking account relationship with City National Bank while Overdraft Protection is available on your account. Each overdraft, including the overdraft fees, should be paid in full within thirty (30) days after the overdraft first occurs. You agree to bring your account to a positive balance within thirty (30) days of the first overdraft for at least one (1) business day.

Each overdraft paid or returned will be subject to a fee (\$25), not to exceed five overdraft fees per day (\$125), and will be deducted from your available Overdraft Protection limit. Overdraft fees will not be assessed if the end of day balance is overdrawn by less than \$5. Any overdraft items in excess of your Overdraft Protection limit may be paid or returned at the Bank's discretion and assessed a fee. Even if Overdraft Protection is available, this does not guarantee all items that overdraw the account will be paid. See the Bank's Consumer Deposit Accounts brochure, available at all City National Bank branches, for a schedule of current fees.

City National Bank reserves the right, to the extent permitted by law, to set-off against other related accounts if the account is not paid in full within thirty (30) days from the date of overdraft. You agree to abide by the Bank's rules and regulations governing checking accounts as stated in the Disclosure Booklet, Consumer Deposit Accounts brochure, and any additional documents provided to you as part of your account opening or enrollment in Overdraft Protection.

The Bank will promptly notify you, in writing, under the following circumstances: an Overdraft Protection limit is added to your account, your Overdraft Protection limit is accessed, your Overdraft limit is changed, your account remains overdrawn for an extended period of time, Overdraft Protection is suspended from your account, or to secure repayment of any overdraft, fee, or service charges owed to the Bank. Notices will be sent by mail, or electronically, if you have opted to receive electronic communications. In addition, monthly account statements which include overdraft and return item fees for the statement cycle and year to date will be provided to you.

Upon written notice to you, the Bank may amend the terms and conditions of the Overdraft Program in any respect, including the overdraft fee. Such notice shall be properly given when enclosed with your checking account statement, in a separate mailing or any other electronic means. See the Bank's Consumer Deposit Account Brochure, available at all City National Bank branches, for a schedule of current fees. Our customer service business hours are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays.

Overdraft Protection will be suspended from your account if you fail to bring your account to a positive balance within 30 days of the first overdraft for at least 1 business day. In addition, Overdraft Protection will be suspended for excessive use if 10 or more items are returned in a statement cycle.

A suspension is defined as the removal of an Overdraft limit until the account is returned to a positive balance and the account must remain positive for 5 days.

The Bank, or any one of the account holders, may cancel your Overdraft Protection authorization upon delivery of notice to the appropriate party. Cancellation by the customer requires written notice to the Bank or verbal discussion, including verification of the customer's Security Access Code (SAC). Cancellation by the customer does not terminate the right of City National Bank to collect any outstanding amounts owed by customer as herein above set forth. If the Agreement needs to be amended because of a change in State or Federal Regulations, the change shall be effective immediately without notice.

For further information about CNB's Overdraft Protection, or to un-enroll from Overdraft Protection, and/or opt-out of the payment for everyday Visa Debit Card transactions at any time, contact the Overdraft Protection department by phone at 1-866-385-3444 or by mail at City National Bank, Attention: Overdraft Protection Department, PO Box 2009, Lawton, OK 73502. Our customer service business hours are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays.

PROCESSING TRANSACTIONS

TRANSACTION POSTING ORDER

Posting order is the order in which transactions (debits and credits) are applied to your account during processing at the end of a business day. It is important to understand how the Bank posts items and how transaction posting order may affect your account balance. Please remember, transactions may not be processed in the order in which they occur.

CREDITS & DEBITS

Credits are deposits or transfers of money into your account. Such as:

- Cash;
- Check deposits made at the teller line;
- Automated Clearing House (ACH) such as automated payroll deposits; and
- Online banking transfers from another account.

Debits are withdrawals or transfers of money out of your account. Such as:

- Write a check;
- Use your Visa Debit Card to withdraw funds or make a purchase; and
- Make online transfers out of your account.

These transactions officially post to your account during the nightly processing. They are posted in the order outlined in the Bank's Transactions Posting Order. (See posting order chart below.)

TRANSACTION POSTING ORDER EXAMPLES

In the normal course of business, the Bank generally posts transactions during nightly processing at the end of each business day in the following order unless otherwise noted in the Transaction Posting Order Chart or section titled **Helpful Transaction Posting Order Facts** below.

Deposits and other credits post to an account before any withdrawal or debit transactions after they are sorted from lowest to highest by dollar amount.

Withdrawals and other debit transactions are separated into groups: chargebacks & wire transfers, internal transfers, in-branch cash withdrawals, ATM withdrawals, debit card transactions, ACH transactions, checks, other bank transactions, and service charges; they are then sorted within those groups from lowest to highest, generally by dollar amount.

The table below shows the usual order for the most common transactions that post to an account during nightly processing.

Transaction Posting Order Chart			
Sequence	Transaction Group Order	Sort Order	According To
1	Deposits and Other Credits	Low to High	Dollar Amount
2	Chargebacks & Wire Transfers	Low to High	Dollar Amount
3	Internal Transfers	Low to High	Dollar Amount
4	In-Branch Cash Withdrawals	Low to High	Dollar Amount
5	ATM Withdrawals	Low to High	Dollar Amount
6	Debit Card Transactions	Low to High	Dollar Amount
7	ACH Transactions (with no check number)	Low to High	Dollar Amount
8	ACH Transactions (with a check number)	Low to High	Check Number
9	Checks (with no check number)	Low to High	Dollar Amount
10	Checks (with a check number)	Low to High	Check Number
11	Other Bank Transactions	Low to High	Dollar Amount
12	Service Charges and Fees	Low to High	Dollar Amount

HELPFUL TRANSACTION POSTING ORDER FACTS

Nightly processing occurs on regular business days (e.g. no Saturdays, Sundays or federal holidays).

Deposits and other credits post before any withdrawal or debit transactions.

ACH transactions with no check numbers post before those with check numbers. Transactions that have a check number post in check number order, from low to high.

Checks with no check numbers post before those with check numbers. Transactions that have a check number post in check number order, from low to high.

Overdraft fees post after each transaction that causes an account to be overdrawn.

Transactions may not be processed in the order in which they occur.

The order in which transactions post may affect the total number of fees that are incurred.

See the section titled Posting Order Examples in Supplement A to learn more about how transactions post to your account and how they will appear on your periodic statement.

DEPOSITS AND CASHED ITEMS

Deposits are not accepted by City National Bank until received at the Bank's headquarters office in Lawton, Oklahoma, or such other processing center as the Bank may use, even though the Bank may provide you with provisional credit.

CASHING ITEMS OR ACCEPTING ITEMS FOR DEPOSIT

CNB may accept a check or other item for deposit to your account from anyone. The Bank has no obligation to question the authority of the person making the deposit. If your account is overdrawn, the Bank will use the deposit to pay the overdraft and any fees or interest you owe to the Bank. All deposits must be accompanied by your deposit slip, account number, and account name, and all checks must be properly endorsed.

CNB may refuse, accept for collection only, or return all or part of any deposit. The Bank may refuse to accept for deposit to your account items which are payable to another person or entity. City National Bank acts only as your collecting agent for items deposited, and the Bank assumes no responsibility beyond the exercise of ordinary care, including care in selecting collecting banks. The Bank is not responsible for errors and delays made by others in the collection process. If the Bank has given you credit for an item and it is not paid for any reason, the Bank may revoke the credit and charge the amount of the item back to your account, even if this causes your account to be overdrawn.

If you use a blank deposit slip rather than your personalized deposit slip, you agree that the Bank will not be liable for errors that may result from your or the Bank's manually encoding the account information. You agree that you will not knowingly deposit items into your account that do not have either a true original signature of the person on whose account it is drawn or an authorized mechanical reproduction of that person's signature.

DIRECT DEPOSITS

If, in connection with a direct deposit plan, CNB deposits any amount in an account which should have been returned to the Federal Government for any reason, you authorize us to deduct the amount of your liability to the Federal Government from the account or from any other account you have with us, without prior notice and at any time, except as prohibited by law. We may also use any other legally available remedy to recover the amount of your liability.

ENDORISING CHECKS

CNB may require your personal endorsement before accepting any item for deposit. The Bank may require that checks and other items you want to deposit or cash be endorsed by all parties to whom the items are payable. Before accepting an item, CNB may require verification of any endorsement, either through personal identification or through an endorsement guarantee by another financial institution acceptable to the Bank.

For acceptance of deposits on Mobile Check Deposit through our Online Banking app, checks must legibly be endorsed, on two lines, within the endorsement box:

For Deposit Only

City National Bank

You must endorse checks in the area that extends 1 ½ inches from the trailing edge of the back of the check. The trailing edge is the left side of the check when you look at it from the front. If you endorse a check outside of this area, or if you mark or otherwise obscure other areas of the check, or if your endorsement is illegible or incomplete, you agree to assume responsibility for and to indemnify the Bank for any loss, delay, liability, claim or damage which occurs as a result.

IDENTIFYING THE ACCOUNT

You must correctly identify the account in which you want your funds deposited. You are responsible for any claim, cost, loss or damage caused by your failure to properly identify the account to which a deposit is made or intended to be made. The Bank may credit an account based solely on the account number listed on the deposit slip or other instruction to credit an account, even if the name on the deposit slip or other instruction differs from the name on the account.

DEPOSIT ERROR CORRECTION

Upon receipt of your deposits, the Bank may provisionally credit your account for the amount declared on the deposit slip, subject to later verification. You must ensure that the amount declared on the deposit slip is correct even if you did not prepare the deposit slip. If the Bank later determines that the amounts declared on the deposit slip are incorrect, the Bank may adjust (debit or credit) your account accordingly. The Bank reports adjustments on your account statement.

BANK CHECKS

If CNB cashes or accepts for deposit, a money order, cashier's check, teller's check, or similar item, and later learns that the item is fraudulent, counterfeit, or invalid for some other reason, the Bank may charge your account for the amount of the item. This may occur even if the Bank previously provisionally made the funds available to you.

OVERPAYMENTS AND REVERSALS

If funds to which you are not entitled are deposited to your account by mistake or otherwise, CNB may deduct these funds from your account, even if the deduction results in an overdraft. The Bank can do this without giving you any prior notice or demand.

RETURNED ITEMS

If a check or any other item deposited in your account is returned to City National Bank by the bank on which it was drawn through the Federal Reserve, a Clearing House or other normal check return channels, we may accept that return and charge the check or other item back against your account without regard to whether the bank on which the check or other item was drawn returned the check before its midnight deadline. Furthermore, if, after a check or other item deposited into your account is finally paid, it is returned to us by the bank on which it was drawn because someone has made a claim that the check or other item was altered, forged, unauthorized, or should not have been paid for some other reason, we may withhold the amount of such check or other item from your account until a final

determination as to the validity of the claim has been made.

CNB may debit your account for any interest you may have provisionally earned on the item. CNB may charge you a fee for each returned item as provided in the service fees section of the current Consumer Deposit Accounts Brochure. Different fees may apply to domestic and foreign items. The Bank is not liable for any action or inaction to recover payment of a returned item. If you do not have sufficient available funds to cover a returned item, the Bank may overdraw your account and charge an overdraft fee. The Bank is not liable to you if there are non-sufficient funds to pay your items because the Bank withdraws funds from your account or in any way restricts your access to funds due to a hold or debit to your account in connection with a returned item. You agree to immediately repay an overdraft caused by a return of a cashed or deposited item.

In some cases the financial institution on which the returned check or other item is drawn may send an electronic notice of return, an indemnified copy of the original, or an image replacement document ("IRD"), instead of returning the item. CNB may act on, and you agree to be bound by, the electronic notice of return, or indemnified copy, or IRD just as if the original item had been returned.

COLLECTION ITEMS

The Bank may accept certain items on a collection basis only, including payments on oil and gas leases, certain securities and checks payable in foreign currencies or at foreign locations. The Bank routes and processes collection items separately. The Bank normally credits your account for collection items only after the Bank receives payment for them. If the Bank credits your account and then does not receive payment, the Bank may debit your account for the amount of the item. The Bank may charge fees for processing collection items. These fees apply even if the collection item is returned unpaid. See the current Consumer Deposit Accounts Brochure for current collection fees.

The financial institution on which the collection item is drawn may also charge you fees. If the other financial institution requires payment of a fee before that institution will process the collection item, the Bank may pay the fee and charge your account. Otherwise, the other financial institution may subtract its fee from the amount of the payment the Bank receives. These fees also may apply even if the collection item is returned unpaid.

FOREIGN INSTRUMENTS

CNB may refuse to accept for deposit or collection a check, draft, or other item that is payable in a currency other than U.S. dollars or that is drawn on a bank or a branch of a bank located outside of the United States ("foreign instrument"). If the Bank accepts a foreign instrument for deposit or collection, you bear all of the risks associated with the collection process and foreign currency fluctuation (exchange rate risk). Actual credit for deposits of, or payable in, foreign currency will be at the Bank's exchange rate then in effect on final collection in U.S. dollars. A foreign instrument may be returned unpaid much later than instruments that are drawn on banks located in the United States, sometimes several months after the Bank processes the foreign instrument. You bear all the risks of a late return. Generally, the Bank will not credit a foreign instrument to your account until the Bank receives the proceeds in cleared funds from the paying bank. If the Bank does provide credit, such credit is provisional and the Bank may reverse the credit at any time if the foreign instrument is returned unpaid or is initially paid but then subsequently returned for fraud. You agree that the Bank may use the then-current exchange rate for such reversals and the Bank may charge your account for the full value of the foreign instrument, including any applicable fees, which may result in a loss to you.

CHECKS LOST DURING COLLECTION

If a check is lost during the collection process, the Bank may charge your account for the amount of the check. If the financial institution on which the check is drawn gives the Bank a photocopy of the check or a debit slip representing the check, the Bank may charge your account for the amount of the check. A lost check may not be returned to the Bank for some time.

Despite any delay, the Bank may charge your account when the Bank receives either the returned check, a copy of the check, or a notice of return.

DEPOSIT DELIVERY AND PREPARATION

You may deliver deposits through various methods. The method and time of delivery determines when you receive credit for the deposit. If CNB credits your account for the amount shown on the deposit slip, the credit is subject to the Bank's subsequent verification, and the Bank's determination of the amount of your deposit is final and binding.

You agree to prepare and deposit in accordance with CNB's instructions which may include the use of an approved deposit slip and deposit envelope, if applicable. The Bank may charge a fee for deposits made without an applicable deposit slip. You authorize the Bank to open the deposit envelope in your absence and credit the contents to your account. The Bank may treat the contents of the deposit envelope as not accepted for deposit until the Bank has verified the contents. If your deposit includes items that the Bank does not accept for deposit, the Bank may hold

those items until you claim them. If you make deposits through a mechanical or automated depository such as an ATM, you agree to exercise due care in opening, closing and properly securing the depository.

DEMAND DRAFTS AND REMOTELY CREATED CHECKS

If you deposit a demand draft or remotely created check (an unsigned draft or a pre-authorized draft) into your account, you warrant and guarantee that the draft or remotely created check is authorized according to the terms on its face by the person identified as drawer.

SUBSTITUTE CHECKS

You agree that you will not deposit "substitute checks" as defined by federal law or Image Replacement Documents ("IRD") that purport to be substitute checks and have not been previously endorsed by a bank. If you deposit such an item, you give the Bank the same warranties and indemnities that the Bank, as a reconverting bank would give under applicable law or regulation and you agree to reimburse the Bank for any claims, losses, costs and damages the Bank may incur. If you provide the Bank with an electronic representation of a substitute check for deposit into your account instead of an original check, you agree to reimburse the Bank for all claims, losses, costs, and damages the Bank incurs because of the substitute check resulting from the electronic representation does not meet applicable substitute check standards or causes duplicate payments.

WITHDRAWALS

Transactions you perform are not completed until the Bank processes them at its headquarters office in Lawton, Oklahoma, or such other processing center as the Bank may use, even though the Bank may provide you with provisional credit.

We may refuse any withdrawal or transfer request which you attempt on forms not approved by us, by any method we do not specifically permit, which is greater in number than the frequency permitted, or which is for an amount greater or less than any withdrawal limitations. Even if we honor a nonconforming request, we may treat continued abuse of the stated limitations (if any) as your act of closing the account. We will use the date the transaction is completed by us (as opposed to the date you initiate it) to apply the frequency limitations.

CHECK CASHING

If any person, including you, wants to cash a check in the Bank's offices, the Bank may require identification satisfactory to the Bank. If the person with our check fails or refuses to satisfy the Bank's requirements, the Bank may refuse to cash the check. The Bank is not liable to you for refusing to cash the check.

CNB may cash checks payable to any signer on your account when endorsed by any other signer.

CNB may refuse to cash a check written to you for any reason. If the Bank does cash such a check and it is returned to us as unpaid, the Bank may deduct the amount of the check from your account and may charge you a fee.

If you ask the Bank to cash a check or other items for you, the Bank may apply the proceeds of the check or other item to fees, overdrafts, and other amounts you owe the Bank.

ORDER OF CHECK AND ITEM PROCESSING

The Bank may accept, pay, certify or charge to the appropriate account checks and other items in any order it chooses. An "Item" includes a check, substitute check, purported substitute check, electronic item or transaction, draft, demand draft, remotely created item, image replacement document indemnified copy, ATM withdrawal or transfer, point-of-sale transaction, pre-authorized payment, automatic transfer, telephone-initiated transfer, ACH transaction, online banking transfer or bill payment instruction, withdrawal slip, in-person transfer or withdrawal, cash ticket, deposit adjustment, any other instruction or order for the payment, transfer or withdrawal of funds, and an image or photocopy of any of the foregoing.

The Bank may establish different processing orders for checks and other items. The Bank may establish different categories for checks and other items. A category may include more than one type of item. The Bank may establish a processing priority for each category. Within each category, the Bank may process checks and other items in any order it chooses. The Bank may, in its sole discretion, change its priorities, categories, or orders at any time without notice to you, including, but not limited to occurrences in which we suspect fraud or possible illegal activity affecting your account. Even if the Bank provisionally posts checks or other items to your account during the day, the Bank may treat them as if the Bank received all of them at the end of the day and process them in any order it chooses. The Bank does not necessarily process transactions in the order in which they occurred.

When you do not have enough available funds in your account to cover all of the checks and other items presented that day, some processing orders may result in more non-sufficient funds or overdraft items and result in more fees than others. The Bank may choose its processing orders at its sole discretion and without notice to you, except

where required by governing regulation.

CHECK PROCESSING AND REVIEW

City National Bank uses automated check processing procedures. In accordance with standard industry practice, CNB does not review every check processed. This means that most checks are processed on the basis of the MICR (Magnetic Ink Character Recognition) line printed along the bottom edge of the check, and are not individually examined for dates, maker signatures, legends, or endorsements. You agree that the Bank will have exercised ordinary care if the Bank examines only those items that the Bank has identified according to certain minimum criteria which the Bank may establish for inspection. You agree to promptly review your account statement, and immediately report any suspicious or unauthorized activity to the Bank. You agree that automated processing of your checks is reasonable and that you accept responsibility for preventing and reporting forgeries, alterations, and other unauthorized uses of your checks or accounts. You agree that the exercise of ordinary care will not require the Bank to detect forgeries or alterations that could not be detected by a person observing reasonable commercial standards.

City National Bank may elect, at its sole discretion, to make further inquiries about certain checks or other paper items which are presented for payment against your account. If the Bank is unable to contact you, or take other steps to determine with reasonable certainty that you authorized these payments, the Bank may return the checks or other paper items unpaid, and the Bank will not have any liability to you with respect to these items.

If the Bank elects to review an item, the Bank may refer to a check or other document upon which your signature appears in order to determine the authenticity of your signature. The Bank may use an automated process to reproduce and retain your signature from a check or other document on which your signature appears.

LARGE CASH WITHDRAWALS

City National Bank may require reasonable advance notice for large cash withdrawals, as determined by the Bank. CNB may refuse to honor a request to withdraw funds in cash from your account or to cash a check (including a cashier's check or other official item) if CNB believes that the amount is unreasonably large or that honoring the request would cause the Bank an undue hardship or security risk. CNB is not responsible for providing your security for any such transaction.

NOTICE OF WITHDRAWALS

We may require not less than 7 days' notice in writing before each withdrawal from an interest-bearing account other than a time deposit. Withdrawals from a time account prior to maturity or prior to any notice period may be restricted and may be subject to penalty. See the Certificates of Deposit and Individual Retirement Accounts sections for additional information, as well as your notice of penalty for each early withdrawal.

RESTRICTIVE LEGENDS

The Bank is not required to honor any restrictive legend on checks you write unless we have agreed in writing to the restriction. Examples of restrictive legends are "must be presented within 90 days", "not valid for more than \$1,000" or "two signatures required". If the Bank does pay or accept checks or other items bearing restrictions or notations, you agree that such restrictions or notations apply only between you and the payee or maker of the check. The notation will have no effect on the Bank, and you agree to accept responsibility for payment of the item and the Bank is not liable to you for any claims, costs, losses, or damages that result from the placement of these restrictions or other notation on checks or other items, or from the Bank's disregarding them.

POSTDATED, INCOMPLETE, OR CONDITIONAL CHECKS

You agree not to issue postdated, incomplete or conditional checks, or to present them for deposit to your account. The Bank has no duty to discover, observe, or comply with postdated, incomplete, or conditional checks, or checks more than six months old. The Bank shall not be liable for accepting for deposit, paying, refusing to pay or rejecting any such item.

OVERDRAFTS

When you transmit a transfer or payment request to us, you authorize us to charge your account for the amount indicated. If your account does not have sufficient available funds, we may reject the transaction. We may charge a fee for each payment or transfer request presented against an account with non-sufficient funds. **For details on the Bank's Overdraft Protection program and to understand your rights and obligations related to Overdraft Protection, please see the Overdraft Protection and Non-Sufficient Funds section.**

Our allowance of any overdraft will not obligate us to honor future overdrafts at a later time and we may refuse to do so without cause or prior notice. **See the Funds Availability policy discussion for information about when you can withdraw funds you deposit.**

SIGNATURES

The Bank may transfer funds between your accounts and take other action on the oral or written instructions of any authorized signer on your account. The Bank may require written authorization for some actions. The Bank only offers accounts which require one signature for a withdrawal. Even if you indicate on your checks or signature card or other account documents that more than one signature is required for withdrawal, you authorize the Bank to pay out funds from your account if the check, item, or other withdrawal instruction is signed or approved by any one of the persons authorized to sign on the account. Each of you (until we receive written notice to the contrary) authorizes each other person signing the signature card to endorse any item payable to you or your order for deposit to the account or any other transaction with us.

RETURNED OR UNPAID ITEMS

If the Bank decides not to pay a check or other item drawn on your account, the Bank may return the original or a copy of the item or send an electronic notice of return and keep either the original or a copy of the item in the Bank's records. If the Bank sends an electronic notice of return, you agree that any person who receives that electronic notice may use it to make a claim against you to the same extent and with the same effect as if the Bank had returned the original item.

SUBSTITUTE CHECKS, INDEMNIFIED COPIES, IMAGES, AND IMAGE REPLACEMENT COPIES

In some cases, the Bank may receive an indemnified copy of your original check, an image replacement document ("IRD"), a substitute check, or an image of your check, instead of the original item. The Bank may act upon presentment of an IRD, indemnified copy, substitute check, or image of your check and pay these items against your account, just as if the original item had been presented.

MONEY MARKET WITHDRAWALS AND TRANSFERS

During any statement cycle, your money market deposit account is limited to six (6) withdrawals or transfers to a third party or another financial institution. These limited withdrawals or transfers include: preauthorized or automatic transfers, electronic transactions, and transactions conducted by check, draft, debit card or similar order to a third party. This limit does not apply to in-person withdrawals, withdrawals at an ATM, or transfers between accounts at City National Bank. Should withdrawals or transfers exceed the limit on more than an occasional basis, the money market deposit account may be converted to a transaction deposit account.

PENDING TRANSACTIONS

Pending transactions are credits or debits which reflect information that the Bank has received; however, the transactions have not been processed and are not posted to the account. The pending transactions will permanently post to your account, generally, in 1 - 3 business days, but occasionally this may take longer. In addition, pending transactions may be subject to overdraft fees if the transaction posts to the account after the account becomes overdrawn. Some transactions do not post to the account for the same amount that was pending. The preauthorization process used by certain merchants such as restaurants, gas stations, hotels, telephone- and online-initiated transactions, retail stores, and airlines may result in a pending debit or credit on your account.

The number of preauthorizations may be limited based on the merchant type. Preauthorization holds on such merchants may also be extended. Documentation may be required to release the preauthorization holds if the merchant has not yet finalized the transaction.

When transactions are pending on your account, your account's available balance reflects these items. Your available balance is the balance available to you at this moment. The available balance does not include any transactions that the Bank has not received, such as Debit Card or ATM transactions, electronic checks or paper checks written.

You may become aware of the difference between the authorized amount and the actual amount through an inquiry via Telephone Banking, Internet Banking (CityNET), or at an ATM, or on your periodic statement. You may also **visit your local branch or you may call us at 1-866-385-3444**. Our customer service business hours are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays.

FUNDS AVAILABILITY

Our policy is to make cash and electronic direct deposits provisionally available to you on the business day we receive your deposit. Electronic deposits will also be available on the day we receive your deposit. Once the funds are available, you can withdraw the funds in cash and we will use the funds to pay checks that you have written. For determining the availability of your deposits, every day is a business day, except Saturday, Sunday and federal holidays. If you make a deposit on a business day that we are open at any CNB branch before 8:00 PM CST or at one of our ATMs before 8:00 PM CST, we consider that day to be the day of your deposit. However, if you make a deposit in a CNB branch or ATM after such stated time, or on a day when we are not open, or it is not a business day, we consider the deposit to be made on the next business day.

We will give only provisional credit until collection is final for any items, other than cash, that we accept for deposit

(including items drawn “on us”). We are not responsible for transactions by mail or by outside depository until we actually record them at the Bank at its headquarters office in Lawton, Oklahoma. We will treat and record all transactions received after our “daily cutoff time” on a business day we are open, or received on a day we are not open for business, as if initiated on the next following business day that we are open.

If you have questions about how our funds availability policy applies to your account, you can ask us when you make a deposit when these funds will be available for withdrawal. Please see the Returned Items section for additional information on how the Bank handles cashed or deposited items that are returned to the Bank. **You may call us during our business hours at 1-866-385-3444 or write to us at PO Box 2009, Lawton, OK 73502-2009, or visit any CNB branch.** Our customer service business hours are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays.

LONGER DELAYS MAY APPLY

In some cases, we will not make all of the funds that you deposit by check available to you on the business day of your deposit. Depending on the type of check that you deposit, funds may not be available until the second business day after the day of your deposit. However, the first \$200 of your deposit will be available immediately. If we are not going to make all of the funds from your deposit available on the first business day, we will notify you at the time you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly with one of our employees, or if we decide to take this action after you have left the premises, we will mail you a notice by the following business day after we receive your deposit. If you will need the funds from a deposit right away, you should ask us when the funds will be available.

In addition, funds you deposit by check may be delayed for a longer period, under the following circumstances:

- We believe a check you deposit will not be paid;
- You deposit checks totaling more than \$5,000 on any one business day;
- You redeposit a check that has previously been returned unpaid;
- You have overdrawn one or more of your accounts repeatedly in the last six months;
- There is an emergency, such as failure of computer or communications equipment at the Bank.

We will notify you if we delay your availability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the seventh business day after the day of your deposit.

SPECIAL RULES FOR NEW CUSTOMERS

If you are a new customer, the following special rules may apply during the first 30 days your account is open:

- Funds from electronic direct deposits into your account will be available on the day we receive the deposit.
- Funds from deposits of cash, wire transfers, and the first \$5,000 of a day’s total deposits of cashier’s, certified, teller’s, traveler’s and federal, state and local government checks will be available on the business day of your deposit if the deposit meets certain conditions. For example, the checks must be made payable to you. The excess over \$5,000 will be available on the seventh business day after the day of your deposit.
- If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first \$5,000 will not be available until the second business day after the day of your deposit.
- Funds from all other check deposits may be available as late as the seventh business day after the day of your deposit.

We welcome further questions that you may have regarding the availability of your deposited funds.

DORMANT OR INACTIVE ACCOUNTS

If you have not made a deposit to or a withdrawal from your account for a period of time that the Bank considers substantial, then the Bank may charge various dormant account fees on the account in addition to regular monthly maintenance and other fees and, if the account received interest, the Bank may stop paying interest on the account. If you re-establish contact with the Bank, the Bank does not have to reimburse you for these fees and the Bank is not liable to you for any interest that would otherwise have accrued on your account.

The Bank may refuse withdrawals or transfers from inactive accounts if you are not available to confirm the transaction’s authorization. The Bank may terminate card or code access to a dormant or inactive account. The Bank may be required to turn over (or escheat) account funds to the state if the account remains inactive. If the Bank does turn over the account funds to the state, you will need to file a claim with the state to recover the funds.

INTEREST ON YOUR FUNDS

CHECKING AND SAVINGS ACCOUNTS

Interest may not be paid if your accrued interest is \$0.01 or less at the time interest is due to be credited. If an account is closed before accrued interest is credited, any accrued interest may be forfeited. Earnings in the form of interest, dividends or credits will be paid only on ledger balance, unless otherwise provided by law or our policy.

CERTIFICATES OF DEPOSIT

Your deposit will earn interest at the fixed annual percentage rate and yield as stated on your certificate throughout the original maturity period. We use the daily balance method to calculate the interest on your certificate. This method applies a daily periodic rate to the principal of the certificate each day. Interest begins to accrue the next business day after the deposit. Interest will not be compounded unless the certificate is designated as stated on the certificate as a compounding certificate. You may withdraw accrued interest before maturity by indicating the manner of payment you desire in a written notification delivered to the Bank. If you choose to change the timing or manner in which your interest is paid during the term of the certificate you may be charged a \$15 administrative penalty. If the COMPOUNDING MONTHLY option is selected on the certificate, the certificate must have a minimum term of 18 months, and the interest will be added back to the Certificate monthly. The annual percentage yield assumes that interest will remain on deposit until maturity. A withdrawal of the interest before maturity will reduce the yield and may result in a \$15 administrative penalty.

INDIVIDUAL RETIREMENT ACCOUNTS

For additional information on interest payments for your IRA account, please see the Individual Retirement Accounts section.

ADDITIONAL RATE INFORMATION

For additional information on the general rules on interest bearing accounts, current interest rates, minimum deposit and minimum balance requirements, please see the Bank's current rate sheet. The rate sheet is available on the bank's website (<https://www.cnb1901.com>) or through the Bank's Telephone Banking service, or in person at any CNB Branch.

STOP PAYMENT PROCEDURES AND NOTICE OF VARYING AMOUNTS

RIGHT TO STOP PAYMENT AND PROCEDURE FOR DOING SO

You can place a Stop Payment on any check you have written, any Automated Clearing House item you have authorized, or any Bill Payment by paper check you have generated through CityNET Online Banking – as long as the item has not cleared your account and you give us prior notice.

Placing a Stop Payment on one of these items will result in City National Bank returning the item to the person or entity. If you need to request a Stop Payment on an item, here's how: call, write or use CityNET Online Banking to contact us in time for us to receive your request three days or more before the payment is scheduled to be withdrawn from your account. Our telephone number, mailing address and Website address are listed on the back cover of this Booklet. If you call or use CityNET Online Banking, we may require you to put your request in writing and get it to us within 14 days, otherwise your Stop Payment may be deleted from your account. We will charge you a non-refundable fee for each Stop Payment Order you request on your account. Stop Payments CANNOT be placed on your Visa Debit Card transaction or CityNET Electronic Bill Payment transactions. See the Bank's Consumer Deposit Account Brochure for a schedule of current fees.

REQUIREMENTS FOR STOP PAYMENTS

The following information must be provided depending on the type of Stop Payment you are requesting:

Check or CityNET Bill Pay Check: You must provide us with the exact dollar amount, the person or entity the check is made payable to and the check number. Once City National Bank receives your signed Stop Payment Order, your Stop Payment will expire 6 months after the stop was initially placed on your account or until a signed Stop Payment Release is received.

Single Entry ACH/EFT Stop Payment: You must provide the exact dollar amount and the person or entity the payment is made payable to. This type of stop will only stop the next payment and allow all future payments to post to your account.

Non-Expiring ACH/EFT Stop Payment: You must provide the name of the person or entity the payment is to. This type of Stop Payment may be placed against the specific person or entity for any dollar amount or to a specific person or entity for a specific dollar amount. Non Expiring ACH/EFT Stop Payments will remain on the account until a signed Stop Payment Release is received.

Stop Payment fees are non-refundable. It is your responsibility to review all withdrawals from your account for

accuracy. If there is an error, notify us immediately. (*See the Error Resolution section.*)

REQUIREMENTS FOR STOP PAYMENT RELEASES

You must provide CNB with your signed, written request and include the EXACT information on the Release as was on the original Stop Payment Order before the Release will be acted upon. **Write to us at PO Box 2009, Lawton, OK 73502-2009, call us at 1-866-385-3444, or visit any CNB branch.** Our customer service business hours to report your issue or concern are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays. The Stop Payment Fee is non-refundable.

BANK'S LIABILITY FOR FAILURE TO STOP PAYMENT

If you order us to stop one of these payments three business days or more before the transfer is scheduled and you provide us with the above requirements, and we do not do so, we will be liable for your financial losses or damages.

SPECIAL RULES FOR CITY NATIONAL BANK PERSONAL MONEY ORDER STOP PAYMENTS

You must be the Purchaser of the personal money order to request a Stop Payment. You may call us at 1-866-385-3444. We may require you to put your request in writing and get it to us within 14 days, otherwise your Stop Payment may be deleted. We will charge you a fee for each Stop Payment Order you request by either deducting the fee from your checking or savings account, or by you paying for the fee in cash.

SPECIAL RULES FOR CITY NATIONAL BANK CASHIER'S CHECK REFUNDS OR REISSUES

You cannot place a Stop Payment on a cashier's check. If after 90 days from the business date the check was purchased, the check has been lost, destroyed or stolen, the Remitter may be able to request a refund or reissue to replace the original check. The Remitter will be required to complete a declaration of loss statement on a form acceptable to the Bank, and may be requested to indemnify the Bank by signing a cashier's check indemnity form, before the Bank will consider processing a refund or reissue. You must provide to us the exact dollar amount, the person or entity the check is made payable to and the check number.

VISA DEBIT CARDS

VISA DEBIT CARDS

The City National Bank Visa Debit Card provides access to your funds at any point of sale terminal nationwide on the Visa/Plus, Mastercard/Cirrus, Accel, and Pulse networks. Your card will allow you to access the services listed below (some of these services may not be available at all terminals.) You must know your PIN to use your card.

- Withdrawals of cash from your checking and savings accounts
- Inquire about your checking and savings account balances
- Transfer funds between your checking and savings accounts
- Access your Overdraft Protection limit
- Funds deposited at an ATM may not be available for immediate withdrawal. Please review the Funds Availability section for more information.

The Bank will charge against your account all purchases made with your card. To obtain a Visa Debit Card, you may have to sign a new Visa Debit Card application. After approval, you may choose to get your card and select your PIN at one of our instant issue machine's located in selected City National Bank branches. If you receive your Visa Debit Card in the mail, you will need to choose your PIN on the Automated Telephone Service at the time of activation. You may also bring the card to any one of the CNB branches to re-PIN the card.

VISA ACCOUNT UPDATER

The City National Bank Visa Debit Card provides access to your funds at any point of sale terminal. Upon reissue, Visa requires us to update your payment information with billers and merchants for which you have recurring payments. We do this for you automatically; however, you can opt out of this service by notifying us that you would not like us to submit the updated information to merchants upon card reissue.

Not all merchants participate in automatic updates. Updates are not guaranteed before the next billing cycle.

CITY SAVERS

With your Visa Debit Card, you may enroll in our City Savers program. This program "rounds up" to the nearest

dollar your Point of Sale (POS) and Signature-Based Visa Debit Card transactions. The difference between your purchase amount and the round up will be deposited into the savings account you have selected.

For example, if you use your Visa Debit Card for \$9.10, the \$9.10 transaction will post to your checking account. During our nightly processing, we will “round up” the transaction by withdrawing the amount that rounds the original transaction amount to nearest dollar, in this example \$0.90, and deposit the \$0.90 in your savings account.

If you have more than one Visa Debit Card transaction posting to your account on one business day, all City Savers “round up” amounts will be added together for each card holder, resulting in one withdrawal from your checking account and one deposit into the selected savings account for each card holder. The checking account withdrawal and the savings account deposit will both be described as a “City Savers Roundup Transaction” and will reference the last four digits of the Visa Debit Card used for the original transaction. If there are multiple cards on one account or multiple card holders that have selected the same savings account number, there will be multiple City Savers transactions on a business day.

Keep in mind the following if you participate in the City Savers program:

- Your City Savers transactions descriptions will be described as a City Savers Roundup transaction and will note the last four digits of the Visa Debit Card account number.
- You must be an owner or authorized signer on the savings account you select.
- ATM transactions are not a part of City Savers and will not round up to the nearest dollar.
- When reviewing memo posted transactions, dollar amounts will show as the actual purchase price payable to your merchant. All City Savers round-up transactions post during nightly processing.
- If you have a savings account attached to your Visa Debit Card so you have the ability to withdrawal money from an ATM, this does not mean you are automatically enrolled in City Savers.
- Each owner on an account can choose to have City Savers added to their Visa Debit Card and select the same or different savings account(s) for the round-up deposit.
- If you have Overdraft Protection, your transactions will continue to round up to the nearest dollar.
- City Savers is not automatically updated if cancel your existing card and you obtain a new one. You must request this service at the time of card issuance.
- City Savers cannot be linked between a business debit card and a personal account or vice versa.

To sign up for City Savers, visit your nearest CNB branch or call 1-866-385-3444. Our customer service business hours are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays. You must identify the savings account you wish to have your deposits made to when the request is made. This selected savings account does not have to be the same account you have attached to your Visa Debit Card to have the ability to withdraw money from an ATM.

LIMITATIONS ON YOUR VISA DEBIT CARD TRANSACTIONS

ATM cash withdrawals are generally limited to \$400 per transaction occurrence. ATM cash withdrawals are normally limited to \$400 per business day, per account. Purchases with the Visa Debit Card are generally limited to \$1,000 per day, per account, as long as your available balance is sufficient to cover the aggregate of all purchases. This is a security feature to protect both you and City National Bank in the event that someone attempts to use your Visa Debit Card without your approval. Upon customer request and at the Bank's discretion, the ATM cash withdrawal and Visa Debit Card purchase limit may be raised.

As with any banking transaction, City National Bank will limit the amount of withdrawals to the available balance and all deposits are accepted on a provisional basis, subject to collection through normal banking procedures.

- You cannot place a stop payment on any transaction made with your Visa Debit Card.
- There are no limitations on transactions between your own accounts.
- We reserve the right to refuse cash withdrawals.
- You may only use the Visa debit card to charge purchases against the account designated with your request for the card.
- Your Visa Debit Card may not be used for any illegal transactions.
- We reserve the right to cancel your Visa debit card.

For additional information, see the Using Overdraft Protection with your Visa debit card section.

POINTS TO REMEMBER ABOUT VISA DEBIT CARDS

- ATM withdrawals are generally limited to \$400 during any one day. The Bank may, upon request, raise the

ATM cash withdrawal limit.

- Purchases are generally limited to \$1000 during any one day. The Bank may, upon request, raise the purchase limit.
- Using ATM's not owned by City National Bank, or CNB's sister bank, FSNB, N.A., will result in a charge for each transaction, balance inquiry or incomplete transaction.
- If you use an ATM that is not operated by City National Bank (or FSNB, N.A.), you may also be charged a fee by the operator of the machine and/or by an automated transfer network.
- Your actual balance must be sufficient to cover your Visa Debit Card purchases otherwise the transaction will be denied.
- If you chose to "opt-in" to access your Overdraft Protection for everyday Visa Debit Card transactions, Overdraft Protection will not show as part of your available balance at an ATM; however, the machine will allow you to overdraw your account up to your available Overdraft Protection limit. If you access your Overdraft Protection limit at an ATM, you will be charged an Overdraft fee.
- Your PIN (Personal Identification Number) is confidential. You will not reveal your PIN to any person not authorized to use your card. If you permit another person to use your card or PIN, you are responsible for all transactions conducted by that person (even if he or she exceeds your authorization), until you notify CNB that the person's authorization has been revoked by you.
- CNB does not store your PIN.
- Notify us immediately if your card is lost, stolen or otherwise compromised at 1-866-385-3444.
- Visa Debit Card purchases may memo post immediately to your account. They will clear your account on a later date once the merchant has processed them (may take up to three days).
- If your Visa Debit Card transaction is denied because of non-sufficient funds in your account, you will be charged a fee for each denial.
- When enrolled in City Savers, your Point of Sale (POS) and Signature based Visa Debit Card transactions will post to your account. During our nightly processing, we will "round up" the transaction by withdrawing the amount that rounds the transaction amount to the nearest dollar and depositing that amount into your designated savings account.
- Review the Disclosures for *Electronic Funds Transfers – Your Rights and Responsibilities* section to know your rights and responsibilities if your card is lost, stolen, or otherwise compromised.
- Funds deposited at an ATM may not be available for immediate withdrawal. Please review the Funds Availability section for more information.

CURRENCY CONVERSION

When you use your Visa-branded debit card at a merchant that settles in currency other than US dollars, the charge will be converted into the US dollar amount. The currency conversion rate used to determine the transaction amount in US dollars is either:

- A rate selected by Visa from the range of rates available in wholesale currency markets for the applicable central process date, which rate may vary from the rate Visa itself receives; or
- The government-mandated rate in effect for the applicable central processing date; and in each instance, plus 1%.
- The conversion rate in effect on the processing date may differ from the rate in effect on the transaction date or posting date.
- The 1% adjustment is made for all international transactions regardless of whether there is a currency conversion associated with the transaction.

CARD HOLDER'S LIABILITY

Tell us AT ONCE if you believe your debit card, PIN or similar code have been lost, stolen, learned by an unauthorized person or otherwise compromised, or if you believe that an electronic fund transfer has been made without your permission by calling the Bank. **If you believe your card has been lost or stolen, or that someone has transferred or may transfer money from your account without your permission, please call us at 1-866-385-3444 or you can write us at City National Bank, PO Box 2009, Lawton, OK 73502-2009.** Our customer service business hours are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays. Telephoning is the best way of keeping your possible losses down, however we may request that you follow up your phone call with notification in writing. You may also access Card Control options by logging into CityNET Online banking on the web or mobile app, where you can freeze or permanently disable your card.

If you notify us of the loss or theft within two business days, your loss is limited to no more than \$50 for an unauthorized electronic funds transfer or a series of related unauthorized transfers should someone use your card or code without your permission.

If you do not tell us within two business days after you learn of the loss or theft, of your card or code, and the Bank can prove we could have stopped someone from using your card or code without your permission if you had told the Bank, you can lose as much as \$500.

You could lose all of the money in your account plus, if you have an overdraft protection plan linked to your account, any transfers from another account, or any advances on a credit line or credit card up to your maximum limit.

Please review your regular checking account statements carefully. If your statement shows Visa Debit Card or other transactions that you did not make, TELL US AT ONCE. If you do not tell the Bank in writing within 60 days after the statement was mailed to you, or you receive notice that it is available to you online, you may not get back any money you lost after the 60 days, if the Bank can prove we could have stopped someone from taking the money if you had told us in time.

If unauthorized activity occurs, you agree to cooperate during the investigation and to complete an affidavit regarding the unauthorized activity.

For additional information, see the Section titled *Disclosures for Electronic Fund Transfers – Your Rights and Responsibilities*.

DISCLOSURES FOR ELECTRONIC FUND TRANSFERS - YOUR RIGHTS AND RESPONSIBILITIES (*CONSUMER ACCOUNTS ONLY*)

REGULATION E DISCLOSURE – ACCOUNTS, DEBIT CARDS, AND OTHER ELECTRONIC TRANSACTIONS

The Electronic Fund Transfers we are capable of handling are indicated below, some of which may not apply to your account. Please read this disclosure carefully because it tells you your rights and obligations for these transactions. You should keep this notice for future reference. You may be asked to authorize a merchant or service provider to electronically collect a charge in the event the check is returned for non-sufficient funds. Paying such a fee electronically is an electronic funds transfer.

This section titled Disclosures for Electronic Fund Transfers applies only to accounts established primarily for personal, family, or household purposes. Therefore, accounts established for business, trust, or any other purpose than those previously mentioned will not be covered by this section and the customer will be held liable for all transactions whether authorized or not. However, the Bank may file a dispute on the customer's behalf if the customer agrees to assist in the investigation and prosecution of claims for unauthorized transactions by completing the appropriate statements and reports requested by the bank. This additional limit on liability does not apply to ATM transactions or to transactions using your Personal Identification Number (PIN) which are not processed by VISA or to commercial credit cards. Notify us immediately of any fraudulent use.

An unauthorized transaction does not include either of the following:

- Any transaction by a business co-owner, a cardholder or person authorized by a cardholder, or other person with an interest in or authority to transact business on the account.
- Any transaction by a cardholder that exceeds the authority given by the Business VISA Debit Card account owner.

TYPES AND LIMITATIONS ON TRANSACTIONS

- Pre-authorized Transfers - We are equipped to:
- Accept certain direct deposits to your checking and savings accounts;
- Pay certain recurring bills from your checking and savings accounts;
- Pay Electronic check conversion - Your check can result in an electronic funds transfer.

For example, you can purchase goods or pay for services and authorize a merchant or service provider to convert your check into an electronic funds transfer. At the time you offer a check to a merchant or service provider, your authorization to make these types of electronic funds transfers may be expressed in writing or implied through the posting of a sign.

Limitations on Frequency of Transfers - There is no limit on the frequency of cash withdrawals from ATMs. Withdrawals and transfers from a money market deposit account are limited to six (6) per statement cycle to a third

party or another financial institution. For details see the Money Market Withdrawals And Transfers section.

Limitations on Dollar Amounts of Transfers - ATM cash withdrawals are limited to \$400 per transaction occurrence. ATM cash withdrawals are normally limited to \$400 per business day, per account. Purchases with the Visa Debit Card are normally limited to \$1,000 per day, per account. Upon customer request and at the Bank's discretion, the ATM cash withdrawal limit and Visa Debit Card limit may be raised.

DISCLOSURE OF CHARGES FOR ELECTRONIC FUND TRANSFERS

- There is no charge for the initial standard image Visa Debit Card issuance.
- There is no additional transaction charge when using your Visa Debit Card, if you use any of the City National Bank's ATM's, or the ATM's for CNB's sister bank, FSNB, N.A.
- At machines not owned by City National Bank (or FSNB, N.A.), you will be charged an additional transaction fee for each withdrawal, transfer, deposit, incomplete transaction or inquiry.
- If you use an ATM that is not operated by City National Bank (or FSNB, N.A.) you may be charged an additional fee by the operator of the machine and/or by an automated transfer network.
- There is no additional charge for using the City National Bank Visa Debit Card for retail purchases.
- You may be charged a per transaction fee for Visa Debit Card transactions if your checking account plan charges you for debits to your account. See the Bank's Consumer Deposit Account Brochure, available at all City National Bank branches, for a schedule of current fees.
- We do not charge for direct deposits to any type of account.
- City National Bank reserves the right to make future changes in the checking account, Visa Debit Card service charges.
- If your Visa Debit Card transaction is denied because of non-sufficient funds in your account, you will be charged a fee for each denial. See the Bank's Consumer Deposit Account Brochure, available at all City National Bank branches, for a schedule of current fees.

RIGHT TO DOCUMENTATION

TERMINAL TRANSFERS: You can get a receipt at the time you make any transfer to or from your account using one of our automated teller machines (ATM).

POINT OF SALE TRANSFERS: If there is no electronic terminal, a receipt may not be generated and your periodic statement may not disclose the terminal location.

DIRECT DEPOSITS: If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you can call us at 1-866-354-3444 to find out whether or not the deposit has been made. If the only possible transfers to or from your account are direct deposits, you will receive a quarterly statement from us.

PERIODIC STATEMENTS: You will get a monthly account statement from us on checking accounts. If the only transfers to or from your savings accounts are pre-authorized deposits, you will get a quarterly statement from us. If you have any other type of electronic transactions you will receive a monthly statement from us.

BANK'S LIABILITY FOR FAILURE TO MAKE TRANSFERS

If we do not complete a transfer to or from your account on time or in the correct amount according to the Agreement with you, we will be liable for your financial losses or damages. However, there are some exceptions. We will NOT be liable, for instance:

- If, through no fault of the Bank's, you do not have enough money in your account to make the transfer.
- If the transfer would go over the limit on your Overdraft Protection limit. (See the section in this brochure titled *Non-Sufficient Funds and Overdraft* section for additional information regarding Overdraft Protection.)
- If the automated teller machine (ATM) where you are making the transfer does not have enough cash.
- If the transfer will exceed the daily amount that we allow to be withdrawn on a given day.
- If the terminal or system was not working properly and you knew about the breakdown when you started the transfer.
- If circumstances beyond our control (such as power outages, equipment failure, fire or flood) prevent the transfer, despite reasonable precautions we have taken.
- If your card has been revoked by you or the Bank for any reason, including, but not limited to suspected fraud, loss or theft, or other such circumstances.

- If the funds in your account are subject to legal process or other encumbrance restricting the transfer.
- If a retail establishment fails to honor your card.
- If an account becomes dormant or inactive, in which case the Bank may terminate card or code access to that account.
- If your card or code has been revoked due to inactivity or at the Bank's discretion.

There may be other exceptions in our Agreement with you. Please see the Indemnification and Limitation of Liability section for additional information on limitations to the Bank's liability. See the Bank's Consumer Deposit Account Brochure, available at all City National Bank branches, for a schedule of current fees.

ERROR RESOLUTION

In case of errors or questions about your electronic transfers, call us during our business hours at 1-866-385-3444 or write to us at PO Box 2009, Lawton, OK 73502-2009, or visit any CNB Branch. Our customer service business hours to report your issue or concern are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays. We must hear from you no later than 60 days after we sent the FIRST statement on which the problem or error appeared. If you are unable to resolve the error with the merchant, then:

Tell us your name, account number and the date the error occurred. Describe the error on the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information. 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. You agree to cooperate during the investigation and to complete an affidavit regarding the unauthorized activity. We will tell you the results of our preliminary investigation within 10 business days after you report a Visa Debit Card error. We will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate an ATM transaction error and up to 90 days to investigate a Visa Debit Card error. If we decide to do this we will provisionally re-credit your account for the amount you think is in error, within 10 business days, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or questions in writing and we do not receive it within 10 business days, we may not re-credit your account. If our investigation proves no error occurred, we will notify you in writing that the funds provisionally re-credited to your account will be withdrawn from your account 5 days after the transmittal of this notification and will also specify the exact date the withdrawal will occur. We will tell you the results within 3 business days after completing our final investigation. You may ask for copies of the documents we used in our investigation.

DISCLOSURE OF ACCOUNT INFORMATION TO THIRD PARTIES

We may release information about your accounts and the transactions you perform to third parties as required or permitted by law or in accordance with customary banking practices, including for the following:

- When it is necessary for completing transfers; or
- In order to verify the existence and condition of your account with us upon request by a third party, such as a credit bureau or merchant; or
- In order to comply with government orders or legal processes; or
- In accordance with your instructions or written permission.

NOTIFICATION PROCEDURES

If your card, PIN or any password has been lost, stolen or otherwise compromised, call us immediately at the phone number below. You will be prompted to select the option to report your card lost or stolen. If we have a question about your request, you may be contacted by a City National Bank Representative on the following business day. **If you suspect an unauthorized transfer has taken place, call us during our business hours at 1-866-385-3444 or write to us at PO Box 2009, Lawton, OK 73502-2009.** Our business hours to report your issue or concern are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays.

SECURITY INTEREST AND RIGHT OF SET-OFF

You grant us a security interest in your Bank accounts to secure the repayment of any overdraft, debt or other obligation that you have with the Bank, whether direct or indirect, and/or any fees or service charges owed to the Bank. We may (without prior notice and when permitted by law) set-off the funds in your Bank account(s) against any due and payable debt you owe us now or in the future, by any of you having the right of withdrawal, to the extent of such person's or legal entity's right to withdraw. If the debt arises from a note, "any due and payable debt" includes the total amount of which we are entitled to demand payment under the terms of the note at the time we set-off, including any balance the due date from which we properly accelerate under the note.

You expressly agree that such rights extend to any federal or state benefit payments electronically deposited in your account, to the fullest extent allowable by law. You understand and agree that if you do not want your benefits applied in this way, you may change your direct deposit instructions to the benefits payor or close your account at any time.

The Bank may use funds held in joint accounts to repay debts on which any one of the joint owners is liable, whether jointly with another or individually. The Bank may charge any such debt against your account at any time, without regard to the origin of deposits to the account or beneficial ownership of funds. Funds held in individual accounts may be used to repay debts, whether such debts are owed jointly with another or individually. Your debts include: those owed by you arising out of another joint account of which you are a joint account holder, even if they are not directly incurred by you; those on which you are secondarily liable; or any amounts for which the Bank becomes liable to any governmental agency or department or any company as a result of recurring payments credited to any of your accounts after the death, legal incapacity, or other termination of entitlement of the intended recipient of such funds.

If the Bank uses funds from a CD or time deposit account, the Bank will waive the early withdrawal penalty if possible.

If you or any joint account holder authorizes withdrawals not presented for payment until after the drawer's death, or if any joint account holder is indebted to the Bank at the time of his or her death, City National Bank is authorized to pay such withdrawals and exercise its right of set-off against the account after such death, notwithstanding any rights that a surviving joint account holder, POD payee, or beneficiary of a "trustee for" account may have to the funds in the account.

The right of set-off does not apply to your account if: (a) it is an IRA or other tax-deferred retirement account; or (b) the debt is created by a consumer credit transaction under a credit card plan (but this does not affect our rights under any consensual security interest); (c) the debtor's right of withdrawal only arises in a representative capacity; or (d) if set-off is otherwise prohibited by law. We will not be liable for the dishonor of any items where withdrawals described in this section result in non-sufficient funds in your account. You agree to hold us harmless from any claim arising as a result of our exercise of our right to set-off.

AUTOMATED CLEARING HOUSE (ACH) NOTICE

ACH entries transmitted by the ACH System are governed by the operating rules of the National Automated Clearing House Association and, in some cases, by Article 4A of the Uniform commercial Code – Funds Transfers as adopted in the state of Oklahoma. For a credit entry subject to Article 4A, the entry may be transmitted through the ACH. Under these rules, we are not required to give you next day notice of ACH items credited to your account. You will continue to receive notice of such items in the periodic statement we provide to you. These rules also provide, among other things, that payments made to you, or originated by you, are provisional until final settlement is made through a Federal Reserve Bank or payment is otherwise made as provided in Article 4A-403(a) of the Uniform Commercial Code. If we do not receive such final settlement, we are entitled to a refund from you in the amount credited to you in connection with that ACH entry.

NO THIRD-PARTY USE

Unless you have the Bank's prior written consent, you may not use any services related to your accounts with City National Bank, including but not limited to CityNET Online Banking, to process transactions for third parties or permit others to initiate service transactions on your behalf. Third parties include businesses that you own, operate, control, or otherwise have an interest in.

TELEPHONE BANKING

Telephone Banking will assist you in accessing your account balance and history information on checking, savings, certificate of deposit, individual retirement account, and loan accounts, as well as fund transfers between your deposit accounts. Telephone Banking also provides multiple debit card services and current interest rate information on deposit accounts.

A telephone transfer of funds from your account to another account with us, if otherwise arranged for or permitted by this Agreement, may be made by the same persons and under the same conditions generally applicable to withdrawals made in writing. Unless a different limitation is disclosed in writing, we restrict the number of transfers from a Money Market account to another account or to third parties, to a maximum of six per month (less than the number of "pre-authorized transfers" during the month).

You may choose your own Security Access Code (SAC) for secure access. Account numbers and a Security Access Code are required for account access. **If you would like to use Telephone Banking for assistance with your**

accounts, please select a Security Access Code (SAC) by calling us during our business hours at 1-866-385-3444 or by visiting any CNB Branch.

Our customer service business hours are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays.

For additional information and instructions on how to use Telephone Banking, including the phone numbers for access to the 24/7 Automated Telephone Banking system, **see the informational brochure provided to you with your account opening documents or you may request a copy from your local branch or you may call us at 1-866-385-3444.** Our customer service business hours are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays.

CONSUMER ONLINE, MOBILE AND TEXT BANKING

A full copy of the CityNET Consumer Online Banking Agreement, which describes in detail all aspects of using these services and Online Banking Security education, can be found at:

<https://www.cnb1901.com/html/citynet/citynet-agreement.html>

BROWSER AND OS REQUIREMENTS

To access CityNET online banking services, you are responsible for using a compatible web browser that has a high security standard. For your security and general user experience, City National Bank & Trust recommends always having the most up-to-date browser version available. Recommended browsers include:

Internet Explorer (IE): <https://support.microsoft.com/en-ca/products/internet-explorer>

Mozilla Firefox: <https://www.mozilla.org/en-US/firefox/>

Google Chrome: <https://www.google.com/chrome/b/>

Apple Safari: <https://support.apple.com/safari>

Please refer to your CityNET Online Banking Agreement for specific information regarding minimum browser requirements.

MOBILE AND TEXT BANKING

Mobile banking and text banking services are offered as a convenience and supplemental service to our online internet banking services. They are not intended to replace access to internet banking from your personal computer or other methods you use for managing your accounts and services with us. Mobile Banking Service allows you to access your CNB account information, use bill pay, and conduct other limited banking transactions with the Bank. You may use the Mobile Banking Services to transfer funds between your eligible CNB accounts (internal transfer), subject to certain limitations for savings and money market accounts discussed in the Limitations on Frequency of Withdrawals and Transfers section set out above. You may not currently transfer to or from an account at another financial institution using our Online Financial Services.

Mobile Check Deposit is a service available within City National Bank's Mobile Banking Application through iPhone and Android. It allows you to deposit checks directly into your City National Bank account(s) by taking a picture of a check using your smartphone. Approval required.

To utilize the Mobile Banking Services, you must be enrolled in CityNET online banking. Some Mobile Banking Services, such as text banking, require you to register your Mobile Device from a desktop computer.

By registering for text banking services and entering your phone number you acknowledge that you agree to the terms of service for text banking services. CNB text banking works with numerous wireless service providers including Alltel, AT&T, Boost Mobile, Cincinnati Bell, Sprint PCS, T-Mobile, U.S. Cellular, Virgin Mobile USA, and Verizon Wireless. However, CNB text banking is not compatible with all handsets. When registering for text banking services you must confirm that you hold the account corresponding to the mobile phone number you have entered, or that you have the account holder's permission to use this service.

Your wireless carrier may assess you additional fees for data or text messaging services, and/or additional charges may apply for Internet usage depending on your wireless carrier. Please consult your wireless provider/carrier for details on correlated rates and charges.

MOBILE BANKING RESTRICTIONS

We reserve the right to limit the types and number of accounts eligible and the right to refuse to make any transaction you request through mobile and text banking. Additionally, we reserve the right to modify the scope of the mobile banking and text banking services at any time. Mobile banking and/or text banking may not be accessible over some network carriers. In addition, the Mobile Banking Services may not be supportable for all Mobile Devices. CNB does not guarantee nor is it responsible for the availability of data services provided by your mobile carrier such as data outages or "out of range" issues.

DIGITAL WALLET

To add a debit card to the Wallet, you must follow the procedures adopted by the Wallet Service Provider and any further procedures we adopt. Not all debit cards are eligible to be added to the Wallet. We may not add a debit card to the Wallet if we cannot authenticate the debit card or if we otherwise suspect there may be fraud associated with the debit card. The Wallet allows you to make purchases using an added debit card wherever the Wallet is accepted. The Wallet may not be accepted outside of the United States or at all places where your debit card is accepted.

City National Bank & Trust is not the provider of the Wallet and is not responsible for its use and function. We are only responsible for the debit card. You should contact the Wallet Service Provider if you have questions concerning how to use the Wallet or problems with the Wallet. We are not responsible for any failure of the Wallet or your inability to use it for any transaction. We are also not responsible for any loss, injury or inconvenience you suffer as a result of a merchant refusing to accept the Wallet.

You agree to protect and keep confidential your User ID, passwords, and all other information required to make purchases with your debit card using the Wallet. Your Disclosure booklet requires you to contact us promptly if you believe there are errors or if you suspect fraud with your debit card. We will resolve any potential error or fraudulent purchase in accordance with the Disclosure booklet. We will not be liable for any losses you incur, except as specifically described in the Disclosure booklet or as otherwise provided by law.

The Wallet Service Provider is responsible for the security of information provided to it or stored in the Wallet. We are not responsible if there is a security breach affecting any information stored in the Wallet or sent from the Wallet.

We can block you from adding an otherwise eligible debit card to the Wallet, suspend your ability to use a debit card to make purchases using the Wallet, or cancel entirely your ability to continue to use a debit card in the Wallet. We may take these actions at any time and for any reason, such as if we suspect fraud with your debit card, if you have an overdue or negative balance on your account, if applicable laws change or if directed to do so by the Wallet Service Provider or the applicable card network (such as Visa). You may remove a debit card from the Wallet by following the Wallet Service Provider's procedures for removal.

ONLINE AND MOBILE BANKING SECURITY

You agree to take every precaution to ensure the safety, security and integrity of your account and transactions when using CityNET Online Financial Services, including but not limited to internet, mobile and text banking services, Bill Pay and E-Statements. You agree not to leave your Access Device unattended while logged into online Internet, mobile or text banking and to log off immediately at the completion of each access by you. You agree not to provide any of your access information to any unauthorized person. You are responsible for keeping your password, account numbers, personal identification information and other account information confidential.

You will be solely responsible for the use and access to the Access Device, whether authorized or unauthorized. You further agree to hold us harmless for any unauthorized use of the Access Device.

You shall be responsible for keeping us informed of any change in your phone number, loss or theft of the Access Device or breach of any security application.

If you permit other persons to use your Access Device, login information or other means to access CityNET Online Financial Services, you will be held responsible for any transactions they authorize and we will not be liable for any damages resulting to you.

PROTECTING YOUR INFORMATION

Your role is extremely important in the prevention of any wrongful use of your account. You are responsible for keeping your password, account numbers, personal identification information and other account information confidential.

CNB is not responsible for customer errors or negligent use of CityNET and will not be liable for losses due to negligent handling or sharing of passwords leading to unauthorized access to the accounts, along with data input errors, leaving your computer unattended during access (be sure to sign off at the end of the session), and/or failure to report known incidents of unauthorized account access within 2 business days.

To contact CityNET about stolen information or suspected fraudulent activity:

USA Phone: Toll Free 1-866-385-3444

Email: report@cnbok.com

Write: CNB, Attn: CityNET Banking Dept., PO Box 2009, Lawton OK 73502-2009

CERTIFICATES OF DEPOSIT

A minimum deposit is required to establish a Certificate of Deposit. Please see the Bank's current rate sheet for current interest rates, minimum deposit and minimum balance information, and additional information on the general rules for interest bearing accounts. The rate sheet is available on the Bank's website (<https://www.cnb1901.com>), or through the Bank's Telephone Banking service, or in person at any CNB branch.

WITHDRAWALS AND TRANSFERS

Those of you named as owners on the face of your certificate are entitled, with proper identification, to withdraw from or cash the certificate. We will only require one endorsement for withdrawal. This means that any one of the account owners acting alone may withdraw the entire account balance and we have no duty to obtain the consent of any other person to the account. Those individuals who have the right to withdraw funds also have the right to request other changes to the account.

TYPES OF CD ACCOUNTS

See the Ownership of Accounts section for information on the various types of CD accounts that may be available to you. For court approved CD accounts, the Bank may require that a current court approved withdrawal agreement be on file with the Bank.

PLEDGES

Your certificate may not be pledged or used as security for a loan or debt without our consent, which we will not unreasonably withhold. If we consent to a pledge, no one may cash, redeem or withdraw from your certificate (including any beneficiary or survivor) until the pledge is removed.

AUTOMATIC RENEWALS

We will automatically renew your certificate on each succeeding maturity date. Each renewal term will be the same as the original term, beginning on the maturity date and will earn interest at the rate offered for new certificates with the same term on that date. Interest on all future renewals will be paid in the same manner as designated on your certificate. If you do not wish to renew the certificate you must either inform us in writing on or before the next maturity date or visit any CNB location to request payment within the applicable grace period. The grace period for stopping a renewal or cashing the certificate is 10 calendar days after the maturity date for certificates with terms of 31 days or longer and within one calendar day for certificates with terms less than 31 days. Any transactions conducted outside of this grace period will be subject to early cashing penalties. Any interest accrued within the ten day grace period will be forfeited if the certificate is cashed.

SINGLE MATURITY

You may request that we not automatically renew this certificate. Interest will not accrue after the maturity date.

EARLY WITHDRAWAL PENALTY

By purchasing a certificate you have contracted to leave your funds on deposit until the stated maturity date. If we consent to a request for a withdrawal, which is not permitted by the terms of the certificate, you may have to pay a penalty. The penalty will be computed as follows. Any certificate with a term of 12 months or greater will forfeit the equivalent of six months interest. Any certificate with a term of less than 12 months will forfeit the equivalent of three months interest. We will charge the penalty first against accrued interest and any excess will be deducted from the principal of the certificate at the time of the withdrawal. We are permitted to waive the above penalties if any account owner dies or is declared incompetent. In the event you decide to redeem a Certificate of Deposit prior to the maturity date and interest has been paid out twice we reserve the right to reverse the ACH Direct Deposit. This only applies to a Certificate of Deposit that was set to pay interest by direct deposit to another financial institution. If this certificate is part of an Individual Retirement Account ("IRA"), please read the IRA section below and the applicable IRA custodial agreement provided to you when you opened the account for any additional penalties that may be imposed in the event of a withdrawal.

INDIVIDUAL RETIREMENT ACCOUNTS

A minimum deposit is required to establish an Individual Retirement Account ("IRA.") The original deposit will establish a 12-month IRA Certificate of Deposit. You may make additional deposits, not to exceed your allowable contribution limit, into your account at any time.

When the balance of an IRA Certificate of Deposit becomes less than \$500, you must request to close your IRA or we may do so by transferring the balance to your other account with us or by sending a check to the address we have on file.

Please see the Bank's current rate sheet for current interest rates, minimum deposit and balance information, and additional information on the general rules for interest bearing accounts. The rate sheet is available on the Bank's website (<https://www.cnb1901.com>), or through the Bank's Telephone Banking service or in person at any CNB branch.

AUTOMATIC RENEWALS

Your certificate will automatically renew on each succeeding maturity date. Each renewal term will be the same as the original term, beginning on the maturity date. Your renewed certificate will change to the current 12-month IRA rate and annual percentage yield on the first business day of any calendar quarter and will earn interest at the rate currently offered for IRA accounts. The IRA owner will have a ten (10) day "grace period" after the maturity date to withdraw funds without any "early cashing" penalties.

EARLY WITHDRAWAL PENALTIES

According to the term of your certificate, an "early cashing" penalty equivalent to six months of interest computed using the IRA interest rate on your account will be assessed. We will charge the penalty first against accrued interest and any excess will be deducted from the principal of your certificate at the time of the withdrawal. We are permitted to waive the above penalties if the account owner dies or is declared incompetent.

Unless the IRA depositor dies or becomes disabled, any withdrawals occurring prior to age 59-1/2 will be considered "premature". Premature withdrawals may be in the form of partial withdrawals or actual closing of the account.

This includes transfers from City National Bank to another IRA Custodian.

In addition to the "early cashing" penalties described above, City National Bank may charge a fee of \$25 for a "premature" partial withdrawal and a fee of \$50 for "premature" closing of the account.

For an IRA opened for less than one year, City National Bank may charge a fee of \$75 for a "premature" partial withdrawal or a fee of \$100 for a "premature" closing of the account.

INTEREST

The interest rate on your IRA Certificate of Deposit is variable and is subject to change without limitation at the discretion of City National Bank.

Your IRA Certificate of Deposit rate and annual percentage yield may change to the current 12-month IRA rate and yield on the first day of any calendar quarter.

Interest is compounded and credited annually. We use the daily balance method to calculate the interest on your certificate. This method applies a daily periodic rate to the principal of the certificate each day. You must maintain a minimum balance in the account each day to obtain the disclosed annual percentage yield. Interest begins to accrue the business day after the deposit. If you close your account before interest is credited, you will receive the accrued interest less the amount of applicable penalties.

For additional information about your IRA account see the applicable IRA custodial agreement provided to you when you opened the account.

ADDITIONAL TERMS AND CONDITIONS

ASSIGNMENT AND WAIVER

This Agreement is made for the exclusive benefit of you and City National Bank. No third party has any rights under this Agreement. The Bank may assign our rights and delegate our duties under this Agreement to a company affiliated with us, or to a third party including independent contractors. You may not assign any right or delegate any obligation under this Agreement without CNB's prior written consent.

Any waiver by City National Bank to the terms and provisions of this Agreement must be made by the Bank in writing to be effective. The Bank's waiver of any right under this Agreement will not be deemed a waiver of other rights or of the same right at another time.

RELATIONSHIP

Unless the Bank has expressly agreed in writing to assume special or fiduciary duties or obligations, no such duties or obligations will be imposed on the Bank with respect to You as a depositor of the Bank or as a borrower, guarantor or surety, and no special or fiduciary relationship shall be deemed to exist. City National Bank's relationship with you is that of a debtor and creditor. No fiduciary, quasi-fiduciary, or other special relationship exists between You and City National Bank regarding your deposit account.

CHANGES TO AGREEMENT AND TERMINATION

Except as may be otherwise specifically set forth in the Agreement or as may be required by law, the Bank may change the Agreement, including adding to, deleting from or changing the terms of the Agreement from time to time, without notice to you.

The Bank will generally provide advance notice of an adverse change to account terms by mailing, emailing, or delivering a notice, a message with your statement, or an amended Agreement to the last address (street location or email) on file for you. If you do not agree with a change, you may close your account. However, if you continue

to use your account or keep it open, you accept and agree to the change. The current version of the Agreement supersedes all prior versions and contains the terms governing your account.

Rules governing changes in the interest rates will be provided to you separately and are subject to change without notice. We may amend our security procedures without prior notice if immediate changes are required for security reasons or the changes do not have a material effect on your account, including your use of CityNET.

The Bank, in its sole discretion, may also close your account at any time upon reasonable notice to you and tender the account balance personally or by mail. For joint accounts, notice from the Bank to any one of the joint owners will be considered notice to all of the joint owners.

EARLY PAY TERMS AND CONDITIONS

The Early Pay feature allows qualifying ACH direct deposits to be made available one business day earlier than stated by the sender. To be considered a qualifying deposit, the transaction value must be \$5,000 or less and the bank must receive advance notification from the ACH originator. All deposits made available with Early Pay are provisional until CNB receives final settlement. If CNB does not receive final settlement or the transaction is canceled or otherwise reversed, the provisional funds will be removed from the account.

The Early Pay feature is only available on certain accounts. Refer to your account opening documents or the current Consumer Account Brochure, available at <https://www.cnb1901.com> or at any CNB branch. CNB reserves the right to remove this feature at any time.

LEGAL PROCESS

City National Bank may accept and act on any legal process, without any liability to you, that the Bank believes to be valid, whether served in person, by mail, by facsimile transmission, or by other means, at locations other than the Bank's office at which the account, property, or records are held, or if served in a state other than the state where the account, property, or records are held. "Legal Process" includes a subpoena, restraining order, injunction, writ of attachment or execution, levy, garnishment, tax withholding order, search warrant, forfeiture, or other similar order related to your account.

CNB will hold and turn over funds or other property to the court or creditor as directed by the legal process. The Bank does not pay interest on the funds during the period the Bank holds them. If the Bank uses the funds from a time deposit account, the Bank may impose an early withdrawal penalty.

The Bank may charge your account a legal process fee for each order. You agree to pay the Bank's fees and expenses for research and copying of documents and all other expenses, including administrative expenses that the Bank incurs in responding to any legal process related to your account. These may include attorneys' fees. The Bank may deduct these fees and expenses from any of your accounts without prior notice to you. Any garnishment, attachment or other levy against your account is subject to the Bank's right of set-off and any security interest the Bank has in the account, to the extent allowable by law. The Bank is not liable to you for not paying items because the Bank has held or withdrawn funds from your account or in any way restricted your access to funds because of a legal process. See the Bank's Consumer Deposit Account Brochure for a schedule of current fees.

GOVERNING LAW AND COMPLIANCE

Your accounts and this Agreement will be governed by federal laws and regulations applicable to national associations like City National Bank, and, to the extent local law applies, construed in accordance with the laws of the state of Oklahoma, without reference to Oklahoma's conflict of law provisions. If Oklahoma law and federal law are inconsistent, federal law governs. The body of state and federal law that governs Our relationship with You, however, is too large and complex to be reproduced here. The purpose of this document is to: (1) Summarize some laws that apply to common transactions; (2) Establish rules to cover transactions or events which the law regulates but permits variation by agreement; and (3) Give you disclosures of some of our policies to which you may be entitled or in which you may be interested.

You agree to comply with all applicable federal and state laws and regulations, including when using CityNET and Mobile Banking. You agree not to initiate any ACH entry or other payment type that would violate the economic sanctions administered by the U.S. Treasury's Office of Foreign Assets Control. As a customer of the Bank, you agree that your account will not be used either directly or indirectly in any internet gambling business or for any restricted transactions as defined in Regulation GG, 12 CFR Part 233.

You agree that, except as may otherwise be stated in this Agreement, all deposit transactions between you and the Bank will only be final and completed when proceeds are received in cash or its equivalent and entered on the records of the Bank at its headquarters office in Lawton, Oklahoma. Although we may provide you with provisional or interim deposit credit (such as through the use of an ATM machine), you agree that any deposit-related transactions remain conditional until accepted by City National Bank at its headquarters office in Lawton, Oklahoma.

INDEMNIFICATION AND LIMITATION OF LIABILITY

You agree to reimburse the Bank for all claims, costs, losses, and damages (including fees paid for collection) that the Bank may incur with respect to overdrafts or returned deposits in connection with your account.

The Bank is not liable to you for any claim, cost, loss, or damage caused by an event that is beyond the Bank's reasonable control. In particular, City National Bank is not liable to you if circumstances beyond the Bank's reasonable control prevent the Bank from or delay the Bank in, performing its obligations for a service, including acting on a payment order, crediting a funds transfer to your account, processing a transaction, or crediting your account.

Circumstances beyond the Bank's reasonable control would include, but not be limited to: a natural disaster, for example a tornado, earthquake, ice storm or flood; emergency conditions, for example a war, terrorist attack, riot, fire, theft or labor dispute; a legal constraint or governmental action or inaction; the breakdown of the Bank's equipment for any reason, including a loss of power; the breakdown of any private or common carrier communication or transmission facilities, or any mail or courier service; the potential violation of any guideline, rule, or regulation of any government authority; suspension of payments by another bank; or your act, omission, negligence or fault.

The Bank is not liable for any special, incidental, exemplary, punitive or consequential losses or damages of any kind.

Each joint account holder will be jointly and severally (individually) liable to the Bank, as is more specifically set forth in the Joint Accounts section. This liability is due immediately, and can be deducted directly from the account balance whenever sufficient funds are available. You have no right to defer payment of this liability, and you are liable regardless of whether you signed the item or benefited from the charge or overdraft. This includes liability for our costs to collect the deficit including, to the extent permitted by law, our reasonable attorneys' fees.

OTHER TERMS AND CONDITIONS

If any provision of this Agreement is found to be void or invalid or unenforceable according to its terms, the remainder of this Agreement will remain in full force and effect.

The headings in this Agreement are for convenience or reference only and will not govern the interpretation of the provisions. Unless it would be inconsistent to do so, words and phrases used in this Booklet should be construed so the singular include the plural and plural includes the singular.

SUPPLEMENT A - TRANSACTION POSTING ORDER

Posting order is the order in which transactions (debits and credits) are applied to your account during processing at the end of a business day. It is important to understand how the Bank posts items and how transaction posting order may affect your account balance. Please remember, transactions may not be processed in the order in which they occur.

CREDITS & DEBITS

Credits are deposits or transfers of money into your account. Such as:

- Cash;
- Check deposits made at the teller line;
- Automated Clearing House (ACH) such as automated payroll deposits; and
- Online banking transfers from another account.

Debits are withdrawals or transfers of money out of your account. Such as:

- Write a check;
- Use your Visa Debit Card to withdraw funds or make a purchase; and
- Make online transfers out of your account.

These transactions officially post to your account during the nightly processing. They are posted in the order outlined in the Bank's Transactions Posting Order. (See posting order chart below.)

TRANSACTION POSTING ORDER

Posting order is the order in which transactions (debits and credits) are applied to your account during processing at the end of a business day. It is important to understand how the Bank posts items and how transaction posting order may affect your account balance. Please remember, transactions may not be processed in the order in which they occur.

Transaction Posting Order Chart			
Sequence	Transaction Group Order	Sort Order	According To
1	Deposits and Other Credits	Low to High	Dollar Amount
2	Chargebacks & Wire Transfers	Low to High	Dollar Amount
3	Internal Transfers	Low to High	Dollar Amount
4	In-Branch Cash Withdrawals	Low to High	Dollar Amount
5	ATM Withdrawals	Low to High	Dollar Amount
6	Debit Card Transactions	Low to High	Dollar Amount
7	ACH Transactions (with no check number)	Low to High	Dollar Amount
8	ACH Transactions (with a check number)	Low to High	Check Number
9	Checks (with no check number)	Low to High	Dollar Amount
10	Checks (with a check number)	Low to High	Check Number
11	Other Bank Transactions	Low to High	Dollar Amount
12	Service Charges and Fees	Low to High	Dollar Amount

HELPFUL TRANSACTION POSTING ORDER FACTS

- Nightly processing occurs on regular business days (e.g. no Saturdays, Sundays or federal holidays).
- ACH transactions with no check numbers post before those with check numbers. Transactions that have a check number post in check number order, from low to high.
- Checks with no check numbers post before those with check numbers. Transactions that have a check number post in check number order, from low to high.
- Overdraft fees post after each transaction that causes an account to become overdrawn.
- The order in which transactions post may affect the total number of fees that are incurred.

POSTING ORDER EXAMPLES

The following examples are commonly observed groups of transactions. Each example assumes that the transactions are finalized on the date they are posted to the account (Date Posted) and that transactions are performed during the stated business day. The examples do not and are not intended to describe every scenario or transaction type. They do not consider all other factors such as consumer account or transaction related fees. Other terms, conditions, or products may affect posting order, such as those imposed by the Bank's Funds Availability policy. If you have additional questions or concerns about how items are posted to your account, **call us during our business hours at 1-866-385-3444 or write to us at PO Box 2009, Lawton, OK 73502-2009, or visit any CNB branch.** Our customer service business hours are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays.

Example 1

Jimmy's direct deposit was sent to the bank and posted on Tuesday, January 3rd. Also on January 3rd, he withdrew \$200.00 at his local CNB branch. The transactions that Jimmy had initiated with his debit card a few days earlier, grocery shopping (\$176.00) and cell phone bill payment (\$135.00), were finalized and posted to the account on January 3rd as well.

Posting Order Example #1

Date Posted	Transaction Type	Check #	Transaction Amount	Balance
	Previous Balance			645.00
1/3/2019	Payroll ACH		950.00	1,595.00
1/3/2019	Counter Withdrawal		-200.00	1,395.00
1/3/2019	D/C TRN		-135.00	1,260.00
1/3/2019	D/C TRN		-176.00	1,084.00

Although not all transactions were initiated on the same day, they were all finalized and posted to the account the same day. This is due to the authorization process used by the retail store. The transactions would post the following morning as displayed, according to the Bank's Transaction Posting Order. Deposits post before withdrawals, therefore the deposit (Payroll ACH) would post first. Withdrawals would post next, first the in-branch cash withdrawal (Counter Withdrawal), followed by the debit card transactions (D/C TRN) sorted by lowest to highest dollar amount.

Example 2

On Monday, January 16th, Sally purchased a new pair of shoes using her debit card for \$23.56 and paid her water bill using a check (#1456) for \$100.00. She also stopped by the Bank to deposit a check she received for her birthday for \$50.00 and transfer \$200.00 from her checking account to her savings account. The same evening, the monthly \$5.00 service fee was processed

The transactions conducted at or by the bank posted on the business day that they occurred. The deposit (Counter Deposit) would post first, then the (Transfer), and finally the monthly service charge (Service Charge). Although the debit card transaction and check were initiated on the same day as the other transactions, they did not finalize and post to the account until a couple of days later, on January 18th. This is due to the authorization process used by the retail store and time needed to process checks between financial institutions. According to the Bank's Transaction Posting Order, the debit card transaction (D/C TRN) would post first followed by the check (Check).

Posting Order Example #2

Date Posted	Transaction Type	Check #	Transaction Amount	Balance
	Previous Balance			680.00
1/16/2019	Counter Deposit		50.00	730.00
1/16/2019	Transfer to Savings		-200.00	530.00
1/16/2019	Service Charge		-5.00	525.00
1/18/2019	D/C TRN		-23.56	501.44
1/18/2019	Check	1456	-100.00	401.44

Example 3

On January 11th, Mark purchased groceries with a check (#1649) for \$115.00. Later that day, he wrote a check (#1650) to pay his electric bill for \$95.00 and another check (#1651) at a mass merchant retail store for \$86.00. On the same day Mark withdrew cash at a non-CNB ATM for \$303.00.

The transaction at the non-CNB ATM was finalized and posted to the account on January 13th. The withdrawal (ATM W/D) would post first followed by an ATM transaction fee (ATM Fee) since the ATM that was used did not belong to CNB. All other transactions were finalized and posted to the account a couple of days later on January 13th. In the example above, the check to pay the retail store (#1651) was converted by the merchant to an ACH transaction and will post before the paper checks in accordance with the Bank's Transaction Posting Order. The checks then post in check number order, from lowest to highest.

Posting Order Example #3

Date Posted	Transaction Type	Check #	Transaction Amount	Balance
	Previous Balance			1,569.00
1/11/2019	ATM W/D		-303.00	1,266.00
1/11/2019	ATM Fee		-1.50	1,264.50
1/13/2019	ACH Purchase Retail	1651	-86.00	1,178.50
1/13/2019	Check	1649	-115.00	1,063.50
1/13/2019	Check	1650	-95.00	968.50

Example 4

On the morning of Friday, January 26th, Charles sat down to pay a medical bill. He wrote a check (#1001) to his doctor's office in the amount of \$82.00 and placed it in the mail. On his way out to work that morning, he withdrew \$400.00 from a CNB ATM so that he could take his wife out to the theater that coming weekend. Just before lunch, Virginia, who is a joint owner on her husband's checking account, called Customer Service and requested a wire transfer for \$1,500.00 be sent to her daughter who is attending college out-of-state. The bank representative informed Virginia that a fee of \$20.00 would apply to the wire transfer. Charles, unaware of the wire transfer, continued to conduct transactions on the account. That evening, the couple went out to dinner and paid with a debit card, \$65.00. The next morning, Charles wrote another check (#1002) to pay his utility bill of \$100.00.

The wire, wire transfer fee, and ATM withdrawal would post to the account on the same business day in the following order: wire (Wire Transfer), ATM withdrawal (ATM W/D), and last the bank wire fee (Wire Transfer Fee). The debit and check transactions would post after they were finalized a few days later. The debit card transaction (D/C TRN) would post first followed by the checks (Check) which then post in check number order, from lowest to highest.

In the example above, funds are not sufficient to pay the checks (#1001 and #1002) therefore a \$25.00 overdraft fee, reflected on your statement as OD Item Fee, was charged for each item, totaling \$50.00. Overdraft fees post after each transaction that causes an account to become overdrawn. The account did not have Overdraft Protection or Pre-Authorized Overdraft Transfers. Therefore, the checks were returned and the two overdraft fees (OD Item Fee) were reversed. A \$25.00 non-sufficient funds fee, reflected on your statement as NSF Return Item Fee, was charged for each transaction that caused the account to become overdrawn. The customer would incur fees totaling \$50.00. The payee, to whom the checks were written (the doctor's office and the utility company), may also charge a fee due to the checks being returned unpaid.

Posting Order Example #4

Date Posted	Transaction Type	Check #	Transaction Amount	Balance
	Previous Balance			2,020.00
1/26/2019	Wire Transfer		-1,500.00	520.00
1/26/2019	ATM W/D		-400.00	120.00
1/26/2019	Wire Transfer Fee		-20.00	100.00
1/31/2019	D/C TRN		-65.00	35.00
1/31/2019	Check	1001	-82.00	-47.00
1/31/2019	OD Item Fee		-25.00	-72.00
1/31/2019	Check	1002	-100.00	-172.00
1/31/2019	OD Item Fee		-25.00	-197.00
2/1/2019	Return Item Credit		82.00	-115.00
2/1/2019	Return Item Credit		100.00	-15.00
2/1/2019	Reverse OD Item Fee		25.00	10.00
2/1/2019	Reverse OD Item Fee		25.00	35.00
2/1/2019	NSF Return Item Fee		-25.00	10.00
2/1/2019	NSF Return Item Fee		-25.00	-15.00

SUPPLEMENT B - OVERDRAFT SERVICES

At City National Bank we strive to inform our customers about account options that may be an appropriate solution for their specific needs. The scenarios below highlight available options to help our customers avoid unnecessary fees or returned items. In both scenarios, the customers may have avoided overdraft and non-sufficient funds fees if they had followed the tips described in the section titled Tips to Avoid Overdraft and Non-Sufficient Funds Fees. **If you have additional questions or concerns, call us during our business hours at 1-866-385-3444 or write to us at PO Box 2009, Lawton, OK 73502-2009, or visit any CNB branch. Our customer service business hours are Monday through Friday, 8:00 AM to 7:00 PM, and Saturday, 9:00 AM to 4:00 PM, excluding federal holidays.**

Example Scenario 1

Mr. and Mrs. Myers always stayed on budget by tracking their monthly income and expenses, but this month there was an unexpected expense. Mr. Myers didn't anticipate having any out-of-pocket expenses for his recent medical procedure, and he simply forgot to tell his wife about the money he had spent.

Option A – Without Overdraft Protection

In this example, the account does not have Overdraft Protection or Pre-Authorized Overdraft Transfers. When Mr. and Mrs. Myers opened their account, they chose not to have Overdraft Protection on the account because they had always managed their money so well. Therefore, as transactions posted to the account during nightly processing, it was determined that funds were not sufficient to pay the check (#5364) to the hospital (\$78.22); therefore, a \$25.00 overdraft fee, reflected on their statement as OD Item Fee, was charged. The following day, the check was returned, and the OD Item Fee was reversed. A \$25.00 non-sufficient fund fee, reflected on their statement as NSF Return Item Fee, was charged for the transaction that caused the account to be overdrawn. The hospital may also charge a returned check fee because the check was returned unpaid. Nothing like this had ever happened to them before. So they went to their local branch to inquire about ways to avoid this type of mistake in the future. As well as providing them tips to avoid fees, the Banker also outlined two additional, yet very different, options to help Mr. and Mrs. Myers avoid fees in the future.

Date Posted	Transaction Type	Check #	Transaction Amount	Balance
	Previous Balance			9.17
2/2/2019	Check (Hospital)	5364	-78.22	-69.05
2/2/2019	OD Item Fee		-25.00	-94.05
2/3/2019	Return Item Credit		78.22	-15.83
2/3/2019	Reverse OD Item Fee		25.00	9.17
2/3/2019	NSF Return Item Fee		-25.00	-15.83

Option B – With an Overdraft Protection Limit

The Banker described that if they enrolled in Overdraft Protection and were approved for an Overdraft Protection limit, then an item which would cause the account to become overdrawn may be paid. They were also informed that they must "opt-in" to access their Overdraft Protection limit for everyday Visa Debit Card transactions. Fees were also described: Every debit item paid on an overdrawn account will be subject to a fee of \$25.00, not to exceed five overdraft fees per day (\$125.00) and will be included in the Overdraft Protection limit. The Banker advised them to add money back into the account as soon as possible if it becomes overdrawn. The Myers' asked a few questions and then wanted to learn more about the second option mentioned earlier.

Date Posted	Transaction Type	Check #	Transaction Amount	Balance
	Previous Balance			9.17
2/2/2019	Transfer from Savings		100.00	109.17
2/2/2019	Check (Hospital)	5364	-78.22	30.95
2/2/2019	Sweep Transaction Charge		-5.00	25.95

Option C – With Pre-Authorized Overdraft Transfer

The Banker explained that Pre-Authorized Overdraft Transfers are a convenient way to transfer funds from another CNB account into their checking account before it becomes overdrawn. To take advantage of this product, they would need to sign-up for Pre-Authorized Overdraft Transfers before the account becomes overdrawn. The Banker also informed them that transfers are completed in increments of \$100.00 and are subject to a fee of \$5.00 for each transfer (reflected on their statement as sweep transaction charge). They were also advised that this product was not available to cover ATM or debit card transactions. After looking at both products, Mr. and Mrs. Myers agreed that the second option was the appropriate solution to meet their needs.

Date Posted	Transaction Type	Check #	Transaction Amount	Balance
	Previous Balance			9.17
2/2/2019	Check (Hospital)	5364	-78.22	-69.05
2/2/2019	OD Item Fee		-25.00	-94.05

Example Scenario 2

Aliyah conducted multiple transactions during the week. Aliyah updated the expense log she kept on her smart phone and noticed that she had just under \$100.00 left in her account, so she decided to stop by the grocery store for a few things (\$59.63). She thought she would have enough in her account until her next pay check in two days. However, she forgot to deduct her car insurance payment (\$78.71), which was automatically withdrawn from her account each month.

Option A – Without Overdraft Protection

In this example, the account does not have Overdraft Protection or Pre-Authorized Overdraft Transfers. After transactions are sorted according to the Bank's Transaction Posting Order, it was determined that funds were not sufficient to pay her car insurance (\$78.71); therefore, a \$25.00 overdraft fee, reflected on her statement as OD Item Fee, was charged. The following day, the ACH was returned and the overdraft fee (OD Item Fee) was reversed. Aliyah would incur a \$25.00 non-sufficient funds fee, reflected on her statement as NSF Return Item Fee, for the transaction that caused the account to become overdrawn. She also may be subject to a return item fee or incur late fees from her Insurance Company.

Date Posted	Transaction Type	Check #	Transaction Amount	Balance
	Previous Balance			95.03
2/2/2019	D/C TRN (Groceries)		-59.63	35.40
2/2/2019	ACH Car Insurance		-78.71	-43.31
2/2/2019	OD Item Fee		-25.00	-68.31
2/3/2019	Return Item Credit		78.71	10.40
2/3/2019	Reverse OD Item Fee		25.00	35.40
2/3/2019	NSF Return Item Fee		-25.00	10.40

Option B – With an Overdraft Protection Limit and Opt-in

What would have happened if Aliyah enrolled in Overdraft Protection and was approved for an Overdraft Protection limit of \$200.00 and opted-in for coverage of electronic items? If Aliyah's Overdraft Protection limit was available and sufficient to cover the amount of her car insurance (\$8.71), then the transaction would have been paid. However, it caused the account to become overdrawn, so Aliyah would have incurred a \$25.00 overdraft fee, reflected on her statement as OD Item Fee. She would not, however, need to be concerned about being charged late fees by her insurance company because the bill was paid. The customer should return the account to a positive balance as soon as possible and keep in mind that every debit item paid on an overdrawn account will be subject to a fee of \$25.00, not to exceed five overdraft fees per day (\$125.00) and will be included in the Overdraft Protection Limit.

Date Posted	Transaction Type	Check #	Transaction Amount	Balance
	Previous Balance			95.03
2/2/2019	D/C TRN (Groceries)		-59.63	35.40
2/2/2019	ACH Car Insurance		-78.71	-43.31
2/2/2019	OD Item Fee		-25.00	-68.31

Option C – With Pre-Authorized Overdraft Transfer

What would have happened if Aliyah had previously set up Pre-Authorized Overdraft Transfers from her savings account at the Bank to help cover incidental overdrafts? If funds were available in Aliyah's savings account, then \$100.00 would have been automatically transferred from the her savings account into her checking account. Her car insurance would have been paid and the transfer would be subject to a \$5.00 fee (sweep transaction charge). Pre-Authorized Overdraft Transfers are completed in increments of \$100.00 and are subject to a \$5.00 fee for each transfer.

Date Posted	Transaction Type	Check #	Transaction Amount	Balance
	Previous Balance			95.03
2/2/2019	Transfer from Savings		100.00	195.03
2/2/2019	D/C TRN (Groceries)		-59.63	135.40
2/2/2019	ACH Car Insurance		-78.71	56.69
2/2/2019	Sweep Transaction Charge		-5.00	56.69

TIPS TO AVOID OVERDRAFT AND NON-SUFFICIENT FUNDS FEES

- Practice responsible account management, keep track of your transactions and know how much money is in your account.
- Avoid using Overdraft Protection as a short-term loan. It is a costly form of credit.
- Record checks and all other transactions when you make them. Don't forget to record spending by other account owners/signers.
- Pay special attention to record your ATM withdrawals and fees, Visa Debit Card purchases, and other online payments.
- Make sure you record all automatic payments (such as utility, insurance & loan payments) and account fees in a timely manner.
- Remember that some checks and automatic payments may not have cleared your account yet.
- Review your monthly account statements. Between statements, use Text Banking, CityNET Online Banking, Mobile Banking or Telephone Banking to check your balance and view which payments have cleared.
- When possible, keep extra funds in your checking account.
- Ask us how to set up a Pre-Authorized Overdraft Transfer from another account at City National Bank.
- Use the following low-cost tools available to you to help manage your account and transfer funds when needed: Text Banking, CityNET Online Banking, Mobile Banking or Telephone Banking.
- Limit the number of times you access your Overdraft Protection limit. Withdraw all funds needed in one transaction at a CNB branch or CNB ATM.
- Remember that the order in which transactions post may affect the total number of fees that are incurred. Transactions may not be processed in the order in which they occurred.

See the section titled Posting Order Examples in Supplement A to learn more about how transactions post to your account and how they will appear on your periodic statement.

SERVICE FEES

COMMUNITIES WE SERVE

Common Fees & Charges

ATM Foreign Machine Transactions & Inquires (each)	\$1.75
ATM or Visa Debit Card Denied Transaction (each)	\$1.00
Changing Account Type	\$15.00
Loan Application Fee (except real estate)	\$10.00
Overdraft Item Fee	\$25.00
Non-Sufficient Funds Fee	\$25.00
Personal Money Order (customer and non-customers)	\$2.00
Pre-Authorized Overdraft Transfer (Sweep Transaction Charge)	\$5.00
Statement/Temp Statement/Account Print Out	\$3.00
Stop Payment Order (per item)	\$30.00
Telephone Transfer (each)	\$6.00
Temporary Check (4 pre-printed checks)	\$4.00
Watch or Restriction (per occurrence)	\$30.00

Other Fees & Charges

Account Reconciliation Assistance (per hour)	\$30.00
Cashier's Check (customer)	\$5.00
Charge backs, Cash Items and Reclears (per item)	\$5.00
Closing an Account within the First 6 Months	\$25.00
Copy Service (per page)	\$2.00
Collection Items (outgoing & incoming) & any bank fee	\$25.00
Deposit/Loan Verification	\$35.00
Dormant Account Monthly Charge (after 2 yrs)	\$10.00
Express Mail Fee	\$25.00
Fax Service Incoming (per page)	\$2.00
Fax Service Outgoing (per page)	\$3.00
Garnishment	\$65.00
Hold Release (deposited items)	\$15.00
Inactive Fee (after 90 days)	\$5.00
Incomplete Address Fee (after 120 days)	\$5.00
Incomplete TIN Certification Fee	\$100.00
Levy	\$65.00
CityNet PFM Tool	\$1.00
Night Deposit Bag Rent (per bag/per year)	\$20.00
Notary Service	\$5.00
Re-open Charged Off Account	\$20.00
Research (per hour, any circumstances)	\$30.00
Returned Mail Statement Charge	\$10.00
Safe Deposit Late Fee	\$25.00
Special Handling of Account	\$50.00
Unclaimed Property Fee	\$100.00
Visa Debit Card Gallery Fee	\$12.00
Visa Debit Card Replacement	\$10.00
Wire Transfer (outgoing)	\$20.00
Wire Transfer (incoming)	\$10.00
Zipper Bags - Large (per bag)	\$5.00
Zipper Bags - Coin Size (per bag)	\$3.00

Non-Customer Fees & Charges

ATM Transaction	\$3.50
Cashier's Check	\$15.00
Check Cashing (govt & tax)	greater of \$10 or 4%
Check Cashing (approved checks)	greater of \$3 or 2%-7%
Collection Items (outgoing & incoming) & any bank fee	\$35.00
Notary Service	\$5.00
Signature Guarantee	\$5.00

All fees are periodically reviewed & are subject to change. Updated June 2020

Reach someone friendly in the following communities:

- Bartlesville, OK
- Bixby, OK
- Britton, OK
- Broken Arrow, OK
- Chickasha, OK
- Del City, OK
- Duncan, OK
- Edmond, OK
- El Reno, OK
- Enid, OK
- Glenpool, OK
- Guthrie, OK
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

LISA CARTER, individually, and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff Comanche (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

See Attachment

DEFENDANTS

THE CITY NATIONAL BANK AND TRUST COMPANY OF LAWTON, OKLAHOMA, and DOES 1 through 5, inclusive,

County of Residence of First Listed Defendant Comanche (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Regulation E, 12 C.F.R. § 1005 et seq., 28 U.S.C. § 1332 under the Class Action Fairness Act of 2005. Brief description of cause: Violation of Regulation E's Opt-in Rule, Breach of Contract

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 01/14/2021 SIGNATURE OF ATTORNEY OF RECORD /s/ Barrett T. Bowers

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Attachment:

(c) Attorneys:

Barrett T. Bowers, OKBA No. 30493

THE BOWERS LAW FIRM

P.O. Box 891628

Oklahoma City, Oklahoma 73189

Telephone: (405) 727-7188

Richard D. McCune, CA Bar No. 132124

David C. Wright, CA Bar No. 177468

McCUNE WRIGHT AREVALO, LLP

3281 E. Guasti Road, Suite 100

Ontario, California 91761

Telephone: (909) 557-1250

Emily J. Kirk, IL Bar No. 6275282

McCUNE WRIGHT AREVALO, LLP

231 N. Main Street, Suite 20

Edwardsville, Illinois 62025

Telephone: (618) 307-6116

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Oklahoma's City National Bank Failed to Disclose Overdraft Practices](#)
