

## Online Banking Terms and Conditions

These Online Banking Terms and Conditions (these "Terms and Conditions") govern your use of the BankUnited Online Banking Services. Use of the Online Banking Services is expressly conditioned upon your acceptance of these Terms and Conditions. Please read and review these Terms and Conditions carefully. By enrolling in, or using our Online Banking Services, you acknowledge and agree to abide by these Terms and Conditions.

These Terms and Conditions supplement our applicable disclosure statements and agreements, including, without limitation, our Depositor's Agreement, Schedule of Fees, Funds Availability Disclosure, Electronic Banking Terms and Conditions Disclosure Statement and Agreement and Privacy Policy, in effect from time to time. In the event that any provision of these Terms and Conditions conflict with the terms contained in any such disclosure statements and agreements, these Terms and Conditions shall control, to the extent necessary.

By clicking on the I AGREE button, you acknowledge that you received, read, understand and agree to these Terms and Conditions.

### **DEFINITIONS**

As used herein, the terms the "Bank", "we", "us" or "our" mean BankUnited; N.A. "you" and "your" means an individual or entity that is the owner of an account or an individual authorized by an account owner to view account information and/or effect transactions with respect to an account"; "account" and "accounts" mean the checking, savings, CD, IRA or other BankUnited deposit account that you can access through the Services; "Site" or "Sites" mean the web site(s) owned or operated by the Bank, including, without limitation, <http://www.bankunited.com>; and <http://www.bankunitedonlinebanking.com>; "Service", "Services" and "Online Banking Services" mean all products, services, materials, contents, features and methods of conducting transactions offered, obtained or otherwise made available on or through the Site including, but not limited to, the ability to transfer funds between certain accounts, obtain account balance information, view recent transaction activity details, make bill payments through our bill pay service, view statements and check images online; reorder checks for your BankUnited checking accounts and update your contact information; "Consumer Account" means an account established by an individual primarily for personal, family or household purposes; "Business Account" means any account that is not a Personal Account; and "Business Day" shall mean every Monday through Friday, excluding Federal Reserve holidays.

### **ELIGIBILITY FOR THE SERVICES**

To be eligible to register and use the Services, you must maintain an account with us. In order to use our online bill pay services you must have at least one checking account with us. If you have more than one account that is eligible for access through the Services, we will automatically link your accounts together, and such accounts will appear in your online banking profile, unless you request otherwise. Please note however that certain features of the Services may not be available for all of your accounts. Accounts that you open with the Bank after your initial enrollment in the Services will be enabled in the Online Banking Services.

Certain features, information, transactions or other services available through the Services may not be available when accessing the Services through a mobile device.

### **ACCESS REQUIREMENTS**

To access the Services, you must have access to a computer or approved mobile device with an internet connection. You will also need to have one of the following supported internet browsers, Internet Explorer (version 7 or 8) or Firefox (version 2.6 or 3.6) with 128-bit encryption and Secure Sockets Layer 3 (SSL3).

To the extent that you are able to access the Services using any non-supported internet browser, such use shall be at your sole risk, and you, and not the Bank, shall be liable for any losses resulting from such use. You are responsible for obtaining, installing, maintaining and operating all software, hardware and other equipment necessary to access and use the Services including, without limitation, antivirus, anti-spyware and internet security software. You are also responsible for any and all fees imposed by any internet service provider or communications service provider.

You acknowledge that there are certain security, corruption, transmission error and access availability risks associated with using open networks such as the internet and hereby expressly assume such risks. You further acknowledge that you are responsible for the data security of the systems used by you to access the Services, and for the transmission and receipt of information using such systems. You agree that the Bank is not responsible for any errors or problems that may arise from the malfunction or failure of your computer, internet service provider or other systems, any virus, worm, or other problem that may enter your computer by downloading information or materials from, or otherwise related to your use of the Services. You further agree that the Bank is not responsible for notifying you of any upgrades, fixes or enhancements to, or for providing technical support or other support for your systems.

You are hereby granted a non-exclusive, non-transferable limited and revocable right to access and use the Services as well as any technology in object code. You agree that the Bank and our suppliers or servicers retain all intellectual property rights in any hardware, software, documentation, systems or other technology or intellectual property ("Technology") that may be made available to you in connection with the Services. You further agree (i) to read and comply with any license terms with respect to any Technology made available to you, (ii) to use the Technology solely for purposes of accessing the Services, (iii) to maintain the confidentiality of the Technology and not copy, transfer or disclose the Technology, (iv) not to attempt to circumvent any use or access limitations contained in the Technology, (v) not to translate, reverse engineer, disassemble or decompile any Technology, (vi) to use the Technology in accordance with its documentation and all relevant security policies and procedures, and (vii) to return any and all copies of the Technology to us upon request. All Technology is provided to you on an "AS IS" and "AS AVAILABLE" basis.

## **PASSWORDS AND ADDITIONAL SECURITY MEASURES**

You will be asked to choose a user ID and password which you will use to obtain access to your accounts through the Services. Your user ID and password must not contain any spaces, special characters (i.e. \*, &, and :), and must not have consecutive repeating characters in excess of 2 (i.e. AAA, or 111). In addition, we may ask you to create and provide responses to authentication questions that only you and the Bank will know that may be used to verify your identity (together with your user ID and password, collectively referred to herein as "Access Information"). We may, at our option, change the parameters for the Access Information used to access the Services without prior notice to you. If we do so, you will be required to change your Access Information the next time you access the Services.

You are solely responsible for keeping your Access Information confidential and agree not to give or make it available to any person who is not authorized to access your accounts. You agree that the Bank is authorized to provide information to any party, and act upon all instructions received using your Access Information. You further agree that use of your Access Information will have the same legal effect as your written signature authorizing the transaction. If someone to whom you have granted authority to use your Access Information exceeds such authority, you, and not the Bank, shall be fully liable for all transactions initiated by such individual.

If you believe the security of your Access Information has been compromised in any way, you must notify us immediately. We reserve the right, under certain circumstances, to deny you access to any one or more account(s), the Services or any part thereof, or to deny the processing of transactions if we reasonably believe your Access Information has been compromised in any way or is being used, or might be used, by any unauthorized person(s).

For Business Customers, you agree to immediately notify us if a person with Access Information leaves your employ.

### **HYPERLINKS**

In connection with the Services, the Bank may provide you with a link (“Hyperlink”) to a third party site. Such Hyperlinks are used at your own risk. We are not responsible for, nor do we control, the content, products or services provided through these sites. We do not endorse or guarantee the products, information or recommendations provided by any such linked sites, and are not liable for any failure of products or services advertised on such sites. We do not make any representations or warranties of any kind, express or implied, as to the operations conducted at such other third party sites, or the accuracy or completeness of any information, content, materials or products included thereat including, but not limited to, the warranties of non-infringement of third party rights, title, merchantability and fitness for a particular purpose.

### **ACCOUNT ACCESS**

After you have successfully registered, you can use the Services seven (7) days a week, twenty-four (24) hours a day, although some or all of the Services may not be available during regularly scheduled maintenance periods, or during system/network interruptions.

### **ELECTRONIC MESSAGES AND OTHER COMMUNICATIONS**

By enrolling in and using the Services, you agree that all notices and other communications directly related to your use of the Services or to your accounts may be sent electronically to any e-mail address we have on record for you or, at our option, any other manner permitted by applicable law.

As e-mail is not a secure method of communication over the internet, we recommend that you do not send confidential information, such as account numbers and financial information, to us by e-mail. If you want to contact us electronically, we recommend using the Message Center function in the Services which is a secure method of communication. Please be advised that we will not immediately receive an electronic message you send, and no action will be taken on any electronic message until we actually receive your message and have had a reasonable opportunity to act on it. If you need to contact us immediately, please call our Client Care Center at 877-779-BANK (2265).

If you provide us with a telephone number, including a mobile telephone number, as a contact for any of the products or services offered through the Site, you agree that we may call that number with service messages including, without limitation, prerecorded calls, notwithstanding any federal or state law, rule or regulation that would otherwise prevent us from engaging in this activity without your consent.

### **ALERTS**

Your enrollment in the Services may include access to mobile text messaging related services and alerts (“Alerts.”) By using the Services, you agree that we may send messages through your communication service provider for delivery to you and that your communication service provider is acting as your agent in this capacity. We may use a telephone number or e-mail address we have in our records for you, or such other contact information as you may provide to us, for sending these Alerts.

These Alerts are provided for your convenience and do not replace your monthly account statements, which are the official record of your account. You understand and agree that the information sent through an Alert may not be encrypted and may include personal or confidential information about you such as your account activity or account status, and anyone with access to your e-mail or mobile device may be able to access the Alert. Additionally, Alerts sent via telephone may be delivered to voice mail or

answering machines if no one answers the telephone. It is your responsibility to secure your mobile device, protect your Access Information and provide timely information about changes to your telephone number, e-mail address or other method of delivery in order to protect the confidentiality of this information.

We endeavor to provide Alerts to you in a timely manner, however we do not guarantee the delivery or accuracy of any information sent through an Alert. Messages may be delayed or impacted by factors pertaining to your communication service provider, internet service provider or other third parties. We will not be liable for any losses or damages arising from the disclosure of account information to third parties, non-delivery, delayed delivery, misdirected delivery or mishandling of or inaccurate content in information sent through an Alert.

## **TRANSFERS**

You may use the Services to transfer funds to and from your accounts. Transfers between your accounts can be scheduled for the same day or a future date. If we receive your instructions before 10:00 p.m. EST on a Business Day, the transfer will be processed and posted to your account the same day. If we receive your instructions on or after 10:00 p.m. EST on a Business Day or at any time on a Saturday, Sunday or legal holiday, the transfer will be processed and posted to your account the next Business Day.

You authorize us to charge your account for all funds transfers that you initiate through the Services. You agree to maintain sufficient available funds in your account for each such transfer you schedule. We may, but are not obligated to, make any transfer you may request unless there are sufficient available funds in your account to cover the transfer. If there are insufficient funds in your account and we honor your payment request, you agree that you will reimburse the Bank for the amount of the payment plus any applicable fees, charges and penalties. We will not notify you whether or not your transfer request was completed. You will be able to view in your account history whether or not a transfer was successful.

## **TRANSFER LIMITATIONS**

Your ability to transfer funds and/or make withdrawals from certain accounts is limited by federal regulation. No more than six (6) transfers and withdrawals, or a combination of such transfers and withdrawals by means of a preauthorized or automatic transfer (including, but not limited to withdrawals or transfers made by ACH, telephone, internet or wire) or by check, draft, debit card or similar order payable to third parties may be made from a savings account (including a money market account) each monthly statement cycle (or each month if you have a quarterly statement cycle). Transfers and withdrawals made using the Services are included in calculating the permissible number of transfers or withdrawals. Please refer to our Depositor's Agreement for further details on these transfer limitations.

Additionally, we reserve the right to place limits on the frequency and dollar amounts of any transfers or refuse to make transfers between certain accounts. We will notify you if we determine that we cannot carry out your transfer instructions; provided, however, notification is not required if your transfer instructions are prohibited by these Terms and Conditions or applicable law.

## **PAYMENTS**

Payments that can be made through the Services include, without limitation, payments that you schedule through our Online Bill Pay services, payments to certain BankUnited accounts and payments made in the form of funds transfers to eligible loan or line of credit accounts. Payments will be debited from the account you designate, and you authorize us to debit your account and remit payment as instructed. You agree to maintain sufficient available funds in your account for each payment you schedule. We may, but are not obligated to, make any payments you may request unless there are sufficient available funds in your account to cover the transfer. If there are insufficient funds in your account and we honor your payment request, you agree that you will reimburse the Bank for the amount of the payment plus any

applicable fees, charges and penalties. We will not notify you whether or not your payment request was completed. You will be able to view in your account history whether or not a transfer was successful.

We reserve the right to place limits on the frequency and dollar amounts of any transfers or refuse to make transfers between certain accounts. We will notify you if we determine that we cannot carry out your transfer instructions; provided, however, notification is not required if your transfer instructions are prohibited by these Terms and Conditions or applicable law.

For additional terms regarding our Online Bill Pay Services please refer to our Online Bill Pay Terms and Conditions which govern these services.

### **ACCOUNT INFORMATION**

Account information provided to you as part of the Services is not the official record of your account or its activity. Your account statement will remain the official record of your account. You agree to review your statement promptly after you receive it. If your statement shows transactions that you did not authorize, you must notify us immediately.

### **NEW FEATURES**

We may, from time to time, in our sole discretion, introduce new products, services and features to the Services or modify or delete existing features. We shall notify you of any of these changes if we are legally required to do so. By using any new or modified products, services or features when they become available, you agree to be bound by these Terms and Conditions, as well as any additional terms and conditions specifically applicable to these new offerings.

### **ONLINE SERVICE FEES**

Currently, we do not charge a fee for use of the Services. There may, however, be a charge in connection with your use of some of the features available through the Services (i.e. if you request a stop payment of a check). Please refer to the Schedule of Fees applicable to your accounts for more information. We reserve the right at any time to change, add or modify any fees and charges and will notify you when we do so.

You agree to pay such fees and authorize us to deduct such fees from any accounts you maintain with us. If there are insufficient funds in your accounts to pay these fees, you agree to promptly remit payment to the Bank upon demand.

### **LIABILITY FOR UNAUTHORIZED TRANSFERS OR PAYMENTS-FOR CONSUMER ACCOUNTS ONLY**

Each time you use the Services to process a transfer or payment transaction, you warrant that you are an owner or authorized signer on the account from which the funds are being drawn to make such transfer or payment. The Bank is entitled to act on instructions received using your Access Information and you agree that the use of your Access Information will have the same effect as your signature authorizing the transaction.

If we do not complete a transfer or payment from your account on time or in the correct amount in accordance with our agreement with you, we will be liable only for your actual losses. We will not, however, be liable in any way for any failure or delay in completing any such transaction if:

(i) through no fault of ours, your account does not contain sufficient funds to make the transfer or payment, or the transfer or payment would exceed any applicable overdraft protection for such account;

(ii) the Services, your computer, mobile device or software was not functioning properly at the time you attempted to initiate the transaction and it was evident to you at the time you began the transaction;

(iii) circumstances beyond our control prevent us from making the transfer or payment such as acts of God, natural disasters, fires, floods, acts of government authority, terrorist acts, acts of public enemy or war, riot, civil disturbance, insurrection, labor difficulty, power outages or interruptions, telecommunications failure, severe adverse weather conditions, postal strikes, or other causes beyond our reasonable control;

(iv) you do not provide us with complete and correct payment or transfer information, or you do not follow the instructions in these Terms and Conditions or any other agreement with us for requesting a transfer or payment;

(v) the funds in your account are subject to legal process or other encumbrance restricting the transfer or payment;

(vi) a timely payment or transfer was made but the payee fails to timely credit your account after receipt.

This list is meant to illustrate circumstances under which we would not be liable for failing to make a transfer or payment and is not intended to list all of the circumstances where we would not be liable.

## **UNAUTHORIZED TRANSACTIONS**

### ***FOR CONSUMER ACCOUNTS ONLY***

You must tell us AT ONCE if you believe your Access Information has been stolen or used without your permission, or if you believe that an unauthorized online transaction or payment has been made from any of your accounts. Telephoning us is the best and fastest way of keeping your possible losses to a minimum. If you do not do so, you could lose all the money in each of your accounts, as well as all of the available funds in any overdraft protection account. If you tell us within two (2) Business Days after you discover the loss or theft, you can lose no more than \$50 if someone uses your Access Information without your permission. If you do not tell us within two (2) Business Days after you discover the loss or theft or unauthorized use, and we can prove we could have stopped someone from making a transfer or payment without your authorization if you had told us, you could lose as much as \$500.

Also, if your statement shows transactions that you did not authorize, tell us AT ONCE. If you do not tell us within sixty (60) days after a statement showing such a transfer or payment was transmitted to you, you may not get back any money lost after the sixty (60) days if we can prove that we could have stopped someone from taking the money if you had told us in time. If a good reason (such as a long trip or a hospital stay) prevented you from telling us, we may extend the time periods.

### ***FOR BUSINESS ACCOUNTS ONLY***

You are responsible for all transfers and payments that are made using your Access Information. We shall have no liability to you for any errors or losses you sustain in using the Services except where we fail to exercise ordinary care in processing any transaction. Without regard to care or lack of care of either of us, a failure to report to us any unauthorized transfer, payment or error from any of your accounts within sixty (60) days of our providing or making available to you your account statement reflecting such unauthorized transfer, payment or error shall relieve us of any liability for any losses sustained after the expiration of such sixty (60) day period and you shall thereafter be precluded from asserting any such claim or error.

## **IN CASE OF ERRORS AND QUESTIONS ON YOUR ACCOUNTS**

### **FOR CONSUMER ACCOUNTS ONLY**

In case of errors or questions about transfers or payments made through the Services, you should contact us, as soon as possible, by calling us at (877) 779-BANK (2265) or writing to us at the following address:

BANKUNITED OPERATIONS/EFT ERROR  
7815 NW 148<sup>th</sup> Street  
Miami Lakes, Florida 33016

If you think your statement is incorrect or you need more information about a transaction performed through the Services that is listed on the statement, we must hear from you no later than sixty (60) days after the FIRST statement was sent to you on which the problem or error appears. You must:

1. Tell us your name and account number;
2. Describe the error or the transaction in question, and explain as clearly as you can why you believe it is an error or why you need more information; and
3. Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send your complaint in writing within ten (10) Business Days. We will determine whether an error occurred within ten (10) Business Days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to forty-five (45) days (or ninety (90) days if your account was opened less than thirty (30) days prior to the date of the suspected error) to investigate your complaint or question. If we decide to do this, we will provisionally credit your account within ten (10) Business Days (or twenty (20) Business Days if your account was opened less than thirty (30) days prior to the date of the suspected error) for the amount you think is in error so that you will have use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within ten (10) Business Days, we may not provisionally credit your account.

We will tell you the results within three (3) Business Days after completing our investigation. If we determine that there was no error, we will send you a written explanation. You may ask for copies of documents that we used in our investigation. We may revoke any provisional credit provided to you if we find an error did not occur.

### **FOR BUSINESS ACCOUNTS ONLY**

In case of errors or questions about transfers or payments made through the Services, you should contact us, as soon as possible by calling us at (877) 779-BANK (2265) or writing to us at the following address: BANKUNITED OPERATIONS/EFT ERROR, 7815 NW 148<sup>th</sup> Street, Miami Lakes, Florida 33016. If you think that your statement is wrong or you need more information about a transfer or payment listed on the statement, we must hear from you no later than sixty (60) days after we sent or otherwise made available to you the FIRST statement on which the problem or error appeared. Failure to so notify us will preclude you from being able to assert a claim based on such problem or error. Any errors reported to us will be investigated by us and we will advise you of the results of our investigation.

### **REPRESENTATIONS AND WARRANTIES; LIMITATION OF LIABILITY**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND RELATING TO THE SERVICES, WHETHER EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.

WE MAKE NO REPRESENTATION OR WARRANTY THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, OR THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE. WE FURTHER DISCLAIM ANY REPRESENTATION OR WARRANTY THAT ANY ERRORS IN TECHNOLOGY WILL BE CORRECTED. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS OBTAINED AT YOUR OWN DISCRETION AND RISK, AND WE ARE NOT RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL, WHETHER DUE TO COMPUTER VIRUS OR OTHERWISE. WE MAKE NO REPRESENTATION OR WARRANTY AS TO THE COMPLETENESS, ACCURACY OR RELIABILITY OF ANY THIRD PARTY INFORMATION OR DATA THAT YOU OBTAIN THROUGH THE USE OF THE SERVICES.

WE MAY PERIODICALLY AMEND, ADD, DELETE, UPDATE OR ALTER THE SERVICES INCLUDING, WITHOUT LIMITATION, THESE TERMS AND CONDITIONS. EXCEPT AS OTHERWISE REQUIRED BY APPLICABLE LAW, WE ASSUME NO LIABILITY OR RESPONSIBILITY FOR ANY ERRORS OR OMISSIONS IN THE CONTENT OF THE SITE AND WE SPECIFICALLY DISCLAIM ANY DUTY TO UPDATE THE INFORMATION ON THE SITE.

YOU AGREE THAT NEITHER WE NOR ANY OF OUR OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS OR THIRD PARTY SERVICE PROVIDERS WILL BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY SPECIAL, INCIDENTAL, DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, LOST PROFITS, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, TORT, STRICT LIABILITY OR OTHERWISE, ARISING OUT OF YOUR ACCESS TO OR USE OF THE SERVICES OR THE INABILITY TO ACCESS OR USE THE SERVICES.

THIS SECTION SHALL SURVIVE TERMINATION OF YOUR USE OF THE SERVICES.

### **INDEMNIFICATION**

You acknowledge and agree that you are personally responsible for your conduct while using the Services and agree to indemnify and hold us and our officers, directors, employees, shareholders, parents, subsidiaries, affiliates, agents and third party service providers harmless from and against any losses, damages, liabilities, costs or expenses of any kind including, without limitation, reasonable attorney's fees, court costs and related litigation costs and expenses, that we may incur in connection with any third party claim or otherwise, arising out of or concerning your use of the Services or the use of the Services by anyone using your Access Information, or your violation of these Terms and Conditions. Your obligations under this section shall survive termination of these Terms and Conditions.

### **DISCLOSURE OF ACCOUNT INFORMATION TO THIRD PARTIES**

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

- a. where it is necessary for completing transactions;
- b. where it is necessary for activating additional services;



- c. in order to verify the existence and condition of your account to a third party, such as a credit bureau or merchant;
- d. to a consumer reporting agency for research purposes only;
- e. in order to comply with a governmental agency or court order;
- f. if you give us your written permission; and
- g. in accordance with our Privacy Policy.

### **UNLAWFUL TRANSACTIONS**

You agree not to use the Services for any illegal or unlawful purpose. You acknowledge and agree that we have no obligation to monitor or review your transactions for legality and that we may presume that all of your transactions are legal in all applicable jurisdictions. We reserve the right, however, to decline any transaction that we believe is an illegal transaction or a high-risk transaction in any applicable jurisdiction. We are not responsible for the recovery or reimbursement to you of any funds transferred in connection with any authorized transaction that is determined to be illegal.

You further agree not to use your account or any of the Services to engage in any internet or online gambling transaction including, without limitation, those activities prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq. We reserve the right to decline any transaction that we believe is an internet or online gambling transaction.

The Services are solely offered to citizens and residents of the United States of America. You are prohibited from accessing the Services or downloading any content available through the Services while outside the United States.

### **TERMINATION**

We may terminate your use of the Services, in whole or in part, at any time and for any reason without prior notice including, without limitation, your failure to access the Services for a period of three consecutive months or longer.

You may terminate your rights to use the Services by notifying us in writing. You authorize us to continue making transfers, payments and other transactions you have previously authorized through the Services until such time as we have had a reasonable opportunity to act upon your instructions. It is your responsibility to cancel any recurring or future dated transfers prior to cancelling the Services as these transfers will not be terminated unless you do so. Notwithstanding the foregoing, all recurring transfers and payments must be cancelled prior to terminating the Services.

Upon any termination you shall immediately discontinue use of the Services. Any termination shall not affect your liabilities or obligations under these Terms and Conditions for any transactions initiated prior to termination.

### **ADDRESS CHANGES**

It is your sole responsibility to ensure that your contact information is current and accurate. This includes, but is not limited to, your name, address, telephone numbers and email addresses. Changes can be made through the Site or by contacting our Client Care Center. The Bank is not responsible for any payment processing errors or fees incurred if you do not provide accurate contact or account information.

## **INTERMEDIARIES**

You acknowledge that the Bank may engage third parties to provide some or all of the Services. The Bank shall have no obligation to disclose any such arrangements with third parties to you or obtain your consent thereto.

## **AMENDMENT**

We may amend, revise or modify these Terms and Conditions at any time and from time to time in our sole discretion. We will post the amended terms and conditions on the Site, together with a notice that these Terms and Conditions have been amended. Any use of the Services following such notice will constitute your agreement to such change(s). Further, we may, from time to time, revise or update the applications, services, and/or related material, which may render all such prior versions obsolete. Consequently, we reserve the right to terminate these Terms and Conditions as to all such prior versions of the applications, services, and/or related material and limit access to only the most recent revisions and updates.

## **ASSIGNMENT**

You may not assign any of your rights and obligations under these Terms and Conditions. We may assign our rights and obligations under these Terms and Conditions with no further liability.

## **WAIVER**

Our failure to insist upon or enforce strict performance of any provision of these Terms and Conditions shall not be construed as a waiver of any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of these Terms and Conditions. We shall not be deemed to have waived any of our rights or remedies hereunder unless such waiver is in writing and signed by us. No delay or omission on our part in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on any one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.

## **COPYRIGHT AND TRADEMARKS**

BankUnited and BankUnited Online Banking are servicemarks of BankUnited, Inc. Certain other trademarks and servicemarks owned by us, our subsidiaries and affiliates may be contained in the Site; all other marks contained herein are the property of their respective owner(s).

## **GOVERNING LAW**

These Terms and Conditions shall be governed by and interpreted in accordance with all applicable federal and state laws, rules and regulations. Any action or proceeding arising out of or concerning these Terms and Conditions shall be heard exclusively in the State Court, State of Florida.

## **JURY TRIAL WAIVER**

YOU HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT TO ANY LEGAL PROCEEDING RELATING TO THESE TERMS AND CONDITIONS OR YOUR USE OF THE SERVICES.

## **RISK OF LOSS**

In the event of a system failure or interruption, your data may be lost or destroyed. Any transaction(s) that you were in the process of completing or completed shortly before a system failure or interruption should be verified by you through means other than the Services to ensure the accuracy and completeness of such transaction(s). You assume the risk of loss of your data during any system failure or interruption and the responsibility to verify the accuracy and completeness of any transaction(s) so affected.

### **FORCE MAJEURE**

You agree that we shall have no responsibility or liability to you or any third party for failure or delay in our performance under these Terms and Conditions or for any losses due to causes or conditions beyond our control including, without limitation, delays and/or interruptions of business due to any act of God, natural disaster, fire, flood, terrorist act, act of government authority, act of public enemy or war, riot, civil disturbance, insurrection, labor difficulty, power outage or interruption, telecommunications failure, postal strike severe adverse weather condition or other causes beyond our reasonable control. The time, if any, required for our performance under these Terms and Conditions shall be automatically extended during the period of such delay or interruption.

### **OTHER AGREEMENTS**

In addition to these Terms and Conditions, you agree to be bound by and comply with the terms of such other agreements we may provide to you in connection with the Services or any products which may be accessed through the Services including, but not limited to, our Depositor's Agreement, Online Banking Terms and Conditions, Funds Availability Disclosure, and our Electronic Banking Terms and Conditions Disclosure Statement and Agreement. You further agree to be bound by and comply with any and all applicable federal and state laws, rules and regulations, including but not limited to, the rules and regulations of any networks, clearinghouses or funds transfer system to which the Bank belongs, in connection with your use of the Services. Additionally, if there is a conflict between what an employee of ours says and these Terms and Conditions, these Terms and Conditions will prevail.

### **SEVERABILITY**

If any provision of these Terms and Conditions is determined to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of these Terms and Conditions will not be affected thereby, and each of those provisions will be valid and enforceable to the fullest extent permitted by law.

### **CAPTION HEADINGS AND INTERPRETATION**

The caption headings are for convenience or reference purposes only and are not to be construed as a summary of each provision of this Agreement. Unless it would be inconsistent to do so, words and phrases used in this document should be construed so that the singular includes the plural and the plural includes the singular.

### **ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO PURCHASE REWARDS OFFERS**

The following additional terms and conditions govern your participation in our Purchase Rewards program ("Purchase Rewards"). Purchase Rewards is available to all BankUnited consumer debit cardholders. Through Purchase Rewards, you will receive targeted offers that will allow you to earn rewards on purchases based on how and where you shop.

As used herein, the term Purchase Rewards shall include the Purchase Rewards program and offers, as well as other programs, tools, internet-based services, components and any "updates" (i.e. Purchase

Rewards information, help content, bug fixes, or maintenance releases) if and when they are made available to you by us or by our third party vendors, and Purchase Rewards Account shall mean the BankUnited deposit account which is associated with Purchase Rewards. Certain Purchase Rewards may be accompanied by, and subject to, additional terms and conditions.

### **License Grant and Restrictions**

You are granted a personal, limited, non-exclusive, non-transferable license, to electronically access and use the Purchase Rewards application to benefit from your debit card purchases. You are not licensed or permitted to do any of the following and you may not allow any third party to do any of the following: (i) access or attempt to access any other systems, programs or data that are not made available for public use; (ii) copy, reproduce, republish, upload, post, transmit, resell or distribute in any way the mater from Purchase Rewards; (iii) permit any third party to benefit from the use or functionality of Purchase Rewards, or any other services provided in connection with Purchase Rewards via a rental, lease, timeshare, service bureau or other arrangement; (iv) transfer any of the rights granted to you under this license; (v) work around any technical limitations in Purchase Rewards, use any tool to enable features or functionalities that are otherwise disabled in Purchase Rewards or decompile, disassemble or otherwise reverse engineer Purchase Rewards; (vi) perform or attempt to perform any actions that would interfere with the proper working of Purchase Rewards or any services provided in connection therewith, prevent access to or the use of Purchase Rewards or any services provided in connection therewith by other licenses or customers, or impose an unreasonable or disproportionately large load on the infrastructure while using Purchase Rewards; or (vii) otherwise use Purchase Rewards or any services provided in connection therewith, except as expressly permitted herein.

### **Your Information and Account Data With Us**

You hereby grant to us and our third party vendors, permission to use your Access Information to enable us to provide Purchase Rewards or any services provided in connection with Purchase Rewards to you including, updating and maintaining account information, addressing errors or service interruptions, and to enhance the types of data and services we may provide to you in the future.

We may use anonymous, aggregate information, which we collect and store, or which is collected and stored on our behalf by third party vendors, to conduct certain analytical research and help us to create new offerings and services for our customers. As we make additional offerings and online banking services available to you, some of which may rely on banking information maintained in your accounts, you will have the opportunity to participate in the services if you choose. If you choose not to participate, you do not need to notify us. We may also use anonymous, aggregate information which we collect and store, or which is collected and stored on our behalf by third party vendors, to (i) conduct database marketing and marketing program execution activities; (ii) publish summary or aggregate results relating to metrics comprised of research data from time to time; and (iii) distribute or license such aggregate research data to third parties. Additionally, automated technology may be used to tailor messages or advertisements that best reflect your interest and needs.

### **Purchase Rewards**

You will earn rewards for your participation in Purchase Rewards based on your total purchases. If you participate in Purchase Rewards, we will credit all cash or point rewards earned to your rewards balance and send you a lump sum of all rewards due to you. Your rewards will generally be deposited to your Purchase Rewards Account the month after you redeem the offer. For example, any rewards you redeem in the month of August will generally be credited to your account at the end of September. Any cash rewards will be deposited in the Purchase Rewards Account.

### **Purchase Rewards Account**

You must use the debit card associated with the Purchase Rewards Account in order to receive the offers which qualify for the rewards. Purchase Rewards will not be earned for any portion of your purchase that you pay for with store credit, gift certificates or other payment types.

Purchases must be made as indicated in the Purchase Rewards offer. Each offer will specify whether the purchase can be made online, at a store location, or by telephone to be eligible for rewards. You must comply with any guidelines included with the offer, such as offer expiration dates, minimum purchase amounts, purchase limits, etc. You must also pay using the debit card associated with the Purchase Rewards Account that received the Purchase Rewards offer in order for the purchase to qualify.

While we and the merchants work hard to properly track and credit all eligible purchases, there may be times that we are unable to do so because of problems with your internet browser, the merchant's web site or our system. Please contact our Client Care Center at (877) 779-BANK (2265) if you believe that you have made a qualifying purchase for which you did not receive Purchase Rewards.

Please note that you will not earn rewards as part of this program if you use a debit card not issued by us or do not have the Purchase Rewards Account opened with us at the time of disbursement.

You understand and agree that we make no warranties and have no liability as to:

- Any offers, commitments, promotions, money back or other incentives offered by any of the merchants in the Purchase Rewards program.
- The rewards information that we provide to you, which is provided "as is" and "as available"
- (i) your inability to comply with offer guidelines, (ii) the accuracy, timeliness, loss or corruption, or mis-delivery, of any qualifying purchase information or any other information, (iii) unauthorized access to your account(s) or to your account information and any misappropriation, or alteration of your account information or data, to the extent that the unauthorized access results from your acts or omissions, or (iv) your inability to access your account(s) including, but not limited to, failure of electronic or mechanical equipment, interconnect problems with telephone providers or internet service providers, acts of God, strikes or other labor problems.

### **Ownership**

Digital Insight Corporation, an Intuit Company ("Digital Insight"), manages and administers Purchase Rewards. Digital Insight and BankUnited are not affiliates. Purchase Rewards are protected by copyright, trade secret and other intellectual property laws. You do not have any rights to the trademarks or service marks.