

OFX User Agreement - United States

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Welcome to OFX!

This User Agreement (the "Agreement") is a legal agreement between you and USForex Inc. dba OFX ("OFX") and governs your access and use of OFX services, including money transfer services and any other products and services provided by OFX through our website, mobile applications, software, APIs or other access channels (collectively, the "Services"). By accessing and using the Services, you agree to be bound by this Agreement, as well as all agreements and policies referenced in this Agreement that apply to you, including without limitation our [Privacy Policy](#), [e-Sign Consent Agreement](#) and the [Terms of Use](#). You further agree to any supplemental terms specific to the Services you use such as those additional service terms listed on our Legal and Policy page, including the [Global Currency Account Terms of Service](#), which become part of your agreement with us and are hereby incorporated herein (collectively, the "Terms").

Please read all of our Terms carefully before deciding whether to use our Services. This Agreement includes an Arbitration Agreement (see Section 32) which will require you to resolve all disputes with us on an individual basis through final and binding arbitration. By entering this Agreement, you expressly acknowledge that you have read and understand the terms and have considered the consequences, including your waiver of rights to bring an action on a representative basis or in front of a jury.

We may amend this Agreement or any of the Terms from time to time. Such modifications will become effective upon the earlier of posting to our website or otherwise communicating the changes to you. Your continued use of the Services after the effective date of the posting will be deemed acceptance thereof. If you do not agree with any of the amendments, your sole remedy is to terminate your account with us.

This Agreement applies to U.S. residents only. If you reside outside of the U.S. and wish to use our Services, you can register with one of our affiliates and a separate agreement will apply.

As used throughout this Agreement, "website" refers to www.ofx.com, our mobile site and application. The terms "you" or "your" refers to individuals who register for, use or access the Services. The terms "we," "us" and "our" refers to OFX. Please note that headings in this Agreement are for reference only.

1. Our Services

OFX offers an online money transfer service that allows you to convert your money to a foreign currency and send the funds abroad to recipients in different countries ("Transfer Service"). You may also use our Transfer Service to book Forward Contracts and Limit Orders (as detailed below). We provide additional products and services to facilitate your international payment needs, such as our Global Currency Account Service and any other service that OFX may make available from time to time. Enrollment or registration may be required to access these supplemental services and additional terms and conditions may apply.

As used in the Terms, a "Transaction" refers to any transfer conducted and processed through our Transfer Services. A "Recipient" refers to the beneficiary designated by you to receive funds sent through the Transfer Service. In some instances, you, as the sender, may also be the Recipient such as when you send funds to your own account overseas.

2. Eligibility

In order to access or use our Transfer Services, you must reside in the United States and be at least eighteen (18) years old and you must be capable of forming binding contracts under applicable law. You may not send a transfer funds on behalf of a third party. Our Services are not available to residents of Nevada and may not be available in whole or in part in other jurisdictions due to local laws and regulations.

3. Types of Accounts

You must open an account with us to use any of our Services ("User Account"). We offer two types of User Accounts: personal accounts and business accounts. You must register for the type of account that best suits the purpose of your intended Transactions with OFX.

a. Personal Accounts

Personal accounts are intended only to be used for Transactions related to personal, family or household purposes. Personal accounts may not be used for business, commercial or merchant transactions. Some features of our Services may not be available to personal account holders.

b. Business Accounts

Business accounts should be used when you are conducting Transactions for commercial purposes such as the sale of goods and services. In order to establish a business account, your business entity must be authorized to do business in the United States and have a principal place of business located in the United States. When registering for a business account, we may collect personal information about the beneficial owners, principals or any employee of your business that will be permitted access to the User Account. By establishing a business account and accepting the terms outlined in this Agreement, you attest that you will not use the account for personal, family or household purposes. You further agree that you are authorized to bind the business and submit information on its behalf. If OFX determines that you are using a business account for personal or non-commercial purposes, we may suspend or terminate your account.

4. Account Set Up

a. Account Registration.

When registering for a User Account with us, we will request certain information from you including identification information and other personal information. You must provide accurate and complete information to us in response to any of our inquires and you must keep all information current. Unless we provide explicit approval to you to open more than one OFX account, the creation of duplicate accounts for the same user is not permitted.

b. Validation.

In order to comply with federal laws and regulations, we must obtain, verify and record certain information about you. Accordingly, we may request additional information (non-public personal information) about you, your business or your Recipient when you open your User Account or any time thereafter. Examples of such documents or information, include but are not limited to government-issued photo identification, business invoices, banking statements or other personal, financial or business information that may reasonably allow us to confirm your identity, validate the purpose of your transaction or authenticate your funding source. By accepting this Agreement, you authorize us to make inquires with certain third parties, such as credit reporting agencies or other information providers, that we deem necessary to verify your identity. We reserve the right to suspend or limit access to our Services if we are unable to sufficiently verify your information.

5. Account Management

Only the registered user of the account, or any authorized user approved by OFX to access the account, may conduct Transactions through a User Account. All Transactions and actions undertaken in relation to a User Account will be deemed those of the registered user. You are responsible for safeguarding your log-in credentials. You agree to contact us immediately if you believe that your username and/or password has been lost, stolen or compromised in any way or you believe that an unauthorized person has accessed or may access your User Account. You must notify OFX promptly with any changes to your personal details

such as your e-mail address or telephone number.



6. Booking Transactions

When initiating a Transaction, you will be asked to provide specific information concerning your Transaction, including but not limited to: (i) the full name of the Recipient; (ii) the Recipient's bank account information including bank name, account number, IBAN, routing number, bank or branch codes; (iii) the amount you wish to transfer; and (iv) payment method information (collectively, your "Instructions"). You should ensure that all Instructions are accurate before submittal. Failure to provide accurate information, may result in delay or mis-delivery of funds. Upon submission of your Transaction, you will receive a booking confirmation that details: (i) any applicable fees assessed on the Transaction; (ii) the exchange rate applied to the conversion of funds; and (iii) your Instructions for delivery including Recipient account information (the "Confirmation"). The Confirmation will be sent by email to the email address associated with your User Account. Please contact Customer Service if you do not receive a Confirmation. You should review the Confirmation carefully and notify us immediately if you identify any errors or if any information or Instruction included on the Confirmation is incorrect. Subject to your limited cancellation rights set forth in Section 15, all Transactions are final upon submission and cannot be cancelled or amended unless otherwise required by law. We reserve the right to reject, cancel, delay or block any Transaction for any reason including without limitation because: (i) providing Services to you or processing a particular Transaction would constitute a violation of applicable law; (ii) you fail to provide adequate verification of your identity or the purpose of your Transaction; (iii) you fail to provide any additional information requested by us; (iv) we are unable to contact you for a period of 24 hours from the date of booking; (v) you provide false or misleading information; (vi) we believe in our sole discretion that the Transaction is unauthorized, fraudulent or inauthentic; or (vii) you are otherwise in breach of the Terms.

7. Payment Methods

You must ensure that we receive full payment for the Transaction amount within two (2) business days of booking the Transaction. Your Transaction will not be completed and funds will not be delivered until we are in receipt of cleared funds in the full amount of the Transaction. Failure to provide payment may result in delays and/or losses borne by you. You may fund your Transaction by wire transfer from your bank account ("Bank Transfer") or by direct debit through the automated clearinghouse system ("ACH Debit"). No other payment methods are accepted including without limitation cash, checks, electronic checks, credit cards, payments from third-party payment service providers or pre-paid cards.

8. Payment by Bank Transfer

If you choose to pay for your Transaction by Bank Transfer, you must arrange a transfer of funds to our specified bank account immediately upon receiving the Confirmation. The Confirmation includes all the information required to facilitate the transfer from your bank account.

9. Payment by ACH Debit

a. Linking a Bank Account.

If you choose to fund your Transaction by ACH Debit, you must first link an account held by you at an outside financial institution ("Bank Account") to your OFX User Account. In order to link your Bank Account, log in to your OFX account and follow the prompts to 'Add a Bank Account.' Once we validate your Bank Account, you will be able to fund any Transactions booked with us by ACH Debit from your linked Bank Account. You can unlink your Bank Account at any time by contacting Customer Service.

b. Authorization and Revocation.

You hereby authorize OFX to initiate electronic debits from your Bank Account as directed by you in the amounts specified by you or, if necessary, credit your Bank Account to correct any erroneous debits. Such authorization shall remain in effect until canceled or revoked in accordance with the terms of this Agreement. You may revoke your authori-

zation by providing verbal or written notice to us. You must provide your notice of cancellation in a sufficient amount of time to allow us a reasonable opportunity to act upon the cancellation request. You acknowledge that cancellation or revocation of an ACH Debit authorization will not terminate or affect any obligations you have under the Terms.

c. Warranties and Representations.

By linking your Bank Account, you warrant and represent that you have the authority, acting individually without notice to any other account holder, to provide authorization under this Agreement, including the authorization of debit entries from of the Bank Account. You further represent and warrant to OFX that the information you provide to OFX is accurate and complete.

d. Account Validation.

Before activating your linked Bank Account, we must verify your bank account information and ownership of the Bank Account. Most Bank Accounts may be verified by an automated confirmation of your online banking credentials. In order to verify banking credentials, we utilize a third-party provider to initiate a real-time connection with your financial institution. Use of this verification service is subject to the third-party terms and conditions of the [Account Verification Agreement](#). Not all banks support use of banking credential verification. As such, we may instead utilize a microdeposit validation process whereby we will deposit a small sum in your Bank Account and request confirmation from you of the exact amount(s) of such deposits. In addition, we reserve the right at any time to request additional information from you such as bank statements, a voided check or other documentation in order to verify ownership of the Bank Account or your authority to access and authorize debits from the Bank Account.

e. Unauthorized Debits, Errors and Failures.

You must notify us immediately if you discover any discrepancy between the total amount of your Transaction (as stated on the Confirmation) and the amount withdrawn from your Bank Account by ACH Debit. If an ACH Debit fails due to insufficient funds or is otherwise rejected, we may attempt to re-debit your bank account one or more times.

10. Default Rights

a. Defaults.

We may deem you in default of this Agreement if: (i) you fail to make full payment for any Transaction when due; or (ii) your ACH Debit bounces, is returned unpaid or otherwise is dishonored and no alternate form of payment is received by us.

b. Reversals.

We reserve the right to reverse any Transaction that is deemed in default without notice to you. When we reverse a Transaction, we sell back the currency that we purchased at the time you booked the Transaction at the prevailing market rate. If the value of the purchased currency has strengthened, a loss will be incurred ("Reversal Loss") and you will be liable for the amount of that loss.

c. Right of Set-Off.

You agree to pay all amounts owed to us on demand. You acknowledge that we may without prior notice to you satisfy or partially offset any loss payable by you by deducting the total or a portion of the amount of such loss (together with any fees or expenses) from any funds we hold in relation to any Transaction booked by you, including but not limited to an Advance Payment. If the collateral or funds that we hold is insufficient to cover the loss, you will remain liable to us for the remaining balance of the loss.

d. Costs.

Your failure to pay any amount owed to us is considered a breach of this Agreement. In addition to the amount owed, you will be liable for any costs we incur during collection of such amounts. Collection costs may include attorneys' fees and expenses, cost of arbitration proceedings, collection agency fees, applicable interest and other related costs.

11. Forward Contracts

a. Overview

A "Forward Contract" allows you to lock in an exchange rate today for settlement on a specified future date. If you hold a personal account at OFX, Forward Contracts must be booked by telephone. If you hold a business account with us, Forward Contracts can be booked online or by telephone. When you book a Forward Contract you must specify the date on which you wish to execute the transaction ("Settlement Date"). The Settlement Date must be at least 48 hours, but no more than 12 months, from the date on which you book the Forward Contract. You must ensure that we receive payment for the full amount of the Forward Contract on or before the Settlement Date. If we do not receive full payment by the Settlement Date, we reserve the right to reverse the Transaction. You agree and acknowledge that you will be responsible for any Reversal Losses resulting from reversing a Forward Contract.

b. Advance Payments

In some instances, we may request one of more partial payments as security in relation to a Forward Contract prior to the Settlement Date ("Advance Payment"). The Advance Payment may be requested by us when you book the Transaction and/or at any time prior to the Settlement Date. The amount of any Advance Payment will be determined by us at our sole discretion and generally will be calculated as a percentage of the value of the Forward Contract. If you fail to provide an Advance Payment when requested by us, we reserve the right to reverse the Transaction and you will be responsible for any Reversal Losses resulting from such reversal. In the event we incur Reversal Losses in relation to a reversal of a Forward Contract, we may exercise our right of set-off. You acknowledge and agree that no interest will be paid to you by OFX in relation to any funds held by us, including an Advance Payment.

c. Changes

Subject to your cancellation rights set forth in Section 15, once you book a Forward Contract, it cannot be canceled. In some instances, you may change your Settlement Date in relation to the whole or part of your Forward Contract by requesting an earlier Settlement Date ("pre-delivery") or an extension of the Settlement Date ("roll over"). We may grant the request for a new Settlement Date entirely at our discretion. You acknowledge and agree that if the Settlement Date is changed, the exchange rate initially provided to you may be adjusted by us.

d. Assumption of Risk

Due to the volatile nature of the foreign currency exchange market, the value of the currency sold by you may be less favorable on the Settlement Date than its value upon booking the Forward Contract due to the strengthening or weakening of the exchange rate during the period covered by the Forward Contract. You hereby expressly accept and assume such risk.

e. Regulatory Reporting

In accordance with U.S. federal law, OFX is required to report certain information about Forward Contracts to a swap data repository. You hereby consent and authorize disclosure of such information.

12. Limit Orders

A "Limit Order" allows you to enter into a Transaction that is executed only when a pre-set exchange rate is achieved. When initiating a Limit Order, you may designate an exchange rate at which you wish to convert your funds ("Target Rate"). For purposes of a Limit Order, the Target Rate refers to the interbank rate (the wholesale exchange rate). Once the Target Rate is met, your Transaction is automatically executed by us. A Limit Order may be amended or canceled by you as long as it has

not been executed or is in the process of being executed by us. All Limit Orders are considered final and binding once the Target Rate has been met. You may not under any circumstances cancel a Limit Order once the Target Rate is met, whether or not you received notification from us of such. You must ensure that we receive full payment for the Limit Order within two (2) days of the date of execution. A Target Rate is met when your nominated exchange rate has been exceeded by an amount that includes our profit margin and OFX is able to fill the order with its wholesale provider. In some cases, market volatility may cause rapid exchange rate movements that do not allow sufficient time for us to fill the order with our wholesale providers. OFX does not guarantee that your nominated exchange rate will be met or that your Limit Order will be executed. If you do not specify a time period, your Limit Order will automatically expire 12 months from the date the order is booked if the Target Rate is not met before such expiration.

13. Fees

We do not charge any origination fees on any Transaction so long as the Transaction entails a currency conversion. Please be advised that your bank or your Recipient's bank may independently assess fees on the Transaction. You should consult directly with your bank for information regarding those fees. In our sole discretion, from time to time we may permit some currency-pair transfers that do not involve a conversion of currency. The fee for a same-pair currency transfer will be quoted to you at the time of booking and will be expressed either as a flat fee or a percentage of the transfer amount. Any fees charged by us in relation to a particular Transaction will be shown on the Confirmation as well as the receipt provided upon payment.

14. Exchange Rates

When you initiate a Transaction, we will provide a quote to you for the exchange rate that will be applied to your Transaction. The exchange rate quoted is subject to rapid market fluctuations and is not guaranteed until the Transaction is submitted. Your applicable exchange rate will be disclosed on the Confirmation and receipt.

15. Cancellation and Refunds

You may cancel a Transaction for a full refund within 30 minutes from the time the payment is authorized, unless the funds have been paid to the Recipient's account. To cancel a Transaction, you must notify us within the 30-minute timeframe by telephone at 1-888-288-7354. We will issue a refund within three (3) business days from the receipt of funds from your financial institution. If your Transaction is canceled outside of the 30-minute window, the Transaction will be reversed in accordance with Section 10(b) and you may incur Reversal Losses. Notwithstanding the above, residents of certain jurisdictions may have additional rights with respect to refunds and should review the following:

a. California.

The following applies to transactions that are initiated by senders residing in California. **RIGHT TO REFUND:** You, the customer, are entitled to a refund of the money to be transmitted as the result of this agreement if OFX does not forward the money received from you within 10 days of the date of its receipt, or does not give instructions committing an equivalent amount of money to the person designated by you within 10 days of the date of the receipt of funds from you unless otherwise instructed by you. If your instructions as to when the moneys shall be forwarded or transmitted are not complied with and the money has not yet been forwarded or transmitted, you have a right to a refund of your money. If you want a refund, you mail or deliver your written request to OFX at 49 Stevenson St, 13th Floor, San Francisco, CA 94105. If you do not receive a refund, you may be entitled to your money back plus a penalty of up to a \$1,000 and attorneys' fees pursuant to Section 2102 of the California Financial Code.



b. Washington.

The following applies only to transactions that are initiated by senders residing in the State of Washington:

You, the customer, are entitled to a refund of all moneys received for transmittal within ten days of receipt of a written request for refund unless any of the following occurs:

- i. The moneys have been transmitted and delivered to the person designated by the customer prior to receipt of the written request for a refund;
- ii. Instructions have been given committing an equivalent amount of money to the person designated by the customer prior to receipt of a written request for a refund;
- iii. OFX or its authorized delegate has reason to believe that a crime has occurred, is occurring, or may potentially occur as a result of transmitting the money as requested by the customer or refunding the money as requested by the customer; or
- iv. OFX is otherwise barred by law from making a refund.

16. Errors

You must take care to ensure that the Instructions you provide for your Transaction are correct. If we process a Transaction in accordance with your Instructions, you acknowledge that we are not responsible for any mistake caused by your failure to provide accurate Instructions including delivery to the wrong account or delivery of the wrong amount. You further acknowledge that we have no obligation to recover, reimburse or resend funds that are delivered to the wrong account as a result of your providing incorrect Instructions. Notwithstanding the above, OFX will make reasonable efforts to assist you in recovering funds sent in error. If you think there has been an error or problem with your remittance transfer:

- Call us at +1 888-288-7354;
- Write us at USForex Inc. dba OFX, 49 Stevenson St, 13th Floor, San Francisco, CA 94105; OR
- E-mail us at compliance@ofx.com

You must contact us within 180 days of the date we promised to you that funds would be made available to the recipient. When you do, please tell us:

- (1) Your name and address and telephone number;
- (2) The error or problem with the transfer, and why you believe it is an error or problem;
- (3) The name of the person receiving the funds, and if you know it, his or her telephone number or address;
- (4) The dollar amount of the transfer; and
- (5) Your Transaction Deal ID number.

We will determine whether an error occurred within 90 days after you contact us and we will correct any error promptly. We will tell you the results within three (3) business days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may ask for copies of any documents we used in our investigation.

17. Recording Telephone Calls

We may, without notice or warning, monitor or record telephone conversations you or anyone acting on your behalf conducts with us for quality control and training purposes or for our protection. You acknowledge that we have no obligation to retain or make available to you such recordings.

18. No Margin or Speculative Trading

OFX is a money transfer service and does not offer any form of margin or trading services or products. Our Services are not intended to be used for speculative purposes. We will not enter into any type of set-off arrangement which would require settlement in the form of a payment of losses to us or pay out of profit to you as the result of an exchange rate movement.



19. No Advice or Recommendations

We will not take into account your specific financial circumstances or needs when you enter into a Transaction with us and we will not dispense any advice as to the suitability of any Transaction for you. To the extent that we provide any information, it will relate only to the mechanics of your Transaction or to publicly-available information which should not be construed as financial or investment advice. You should obtain independent financial advice with respect to whether a particular Transaction is appropriate for your particular circumstances. You are solely responsible for determining the type and timing of all Transactions you conduct.

20. Restrictions

You may not use this Service in connection with any illegal conduct or for certain activities which we deem inappropriate or unsuitable. You may not act as an aggregator or intermediary on behalf of any third party for the transfer or processing of funds for a third party. For a complete list of prohibited services, please review our [Acceptable Use Policy](#). We may delay, suspend or reject a Transaction or may refuse to provide our Services to you in the future for any reason, including without limitation if we suspect the transaction would subject us to financial or security risk or is unauthorized, fraudulent or would constitute a violation of this Agreement or our Acceptable Use Policy.

21. Mobile Application

Our Services are accessible via a mobile device. Please be advised that if you book a Transaction through a mobile device, your wireless carrier's standard charges, data rates and fees may apply.

If you access the Services using a mobile application developed for Apple iOS, Android or Microsoft Windows, you agree that Apple Inc., Google Inc. and Microsoft Corporation will be third-party beneficiaries to this Agreement. These third-party beneficiaries are not parties to this Agreement and are not responsible for the provision or support of the Services. Your access to the Services using a mobile application is subject to such applicable third-party provider's terms of service.

22. Termination or Modification

We may suspend or terminate your OFX account or your access to any Service at any time for any reason. We may add, remove, suspend, discontinue, or modify all or some of the Services. We may at any time impose additional conditions upon use of a Service or any feature or aspect of a Service. We have full discretion to add, waive or increase fees in relation to the Services at any time. We will take reasonable steps to notify you of such changes or termination. In no event, will we be liable to you or any third party for any compensation, reimbursement of damages of any kind that arise out of termination or suspension of the Service.

You may terminate this Agreement or any other supplemental Service at any time by closing your account. To close your account, please contact Customer Service at 1-888-288-7354 or by email at info@ofx.com.

23. Electronic Notices and Disclosures

As an online service, most of our communications with you including but not limited to transaction receipts or confirmations, annual or periodic notices, updates to agreements and disclosures will be provided to you in electronic format, unless otherwise required by applicable law. We will provide these communications to you by posting them on the OFX website or by emailing them to you at the address listed in your profile. You agree and consent to receive such communications in electronic format. You further agree that such electronic communications have the same meaning and effect as if we had provided you with a paper copy. You may withdrawal your consent to receive all communications in electronically, but if you do so you will no longer be able to use

our Services. For full details on electronic receipt of communications, including system requirements please see our [e-Sign Consent Agreement](#).



24. E-Signatures

By selecting the "I agree" box or typing your name as directed on any requisite form, you agree that your electronic signature constitutes your consent to be bound by the Terms. You further acknowledge that your electronic signature is the legal equivalent of your manual/handwritten signature. You also agree that no certification authority or other third party verification is necessary to validate your signature and that lack of such certification will not in any way affect the enforceability of your signature or any resulting agreement between you and OFX. If you fail to provide your acceptance of the Terms, you cannot open an account with us or otherwise use our Services.

25. Privacy

We are committed to protecting your privacy. Please review our [Privacy Policy](#) to learn more about how we safeguard, share and use your information.

26. Communications

You consent to receive communications from us, including e-mails and phone calls directed to the e-mail address and/or telephone number you provide when you register for an OFX account. Such communications may include without limitation requests for additional documents or information, transaction confirmations and receipts, notifications regarding updates to your account as well marketing or promotional messages. You may opt out of receiving promotional e-mail communications by clicking the unsubscribe link included on the email or by contacting Customer Service. To opt out of promotional phone calls, inform the caller that you do not wish to receive any further calls from us. In order to continue using our Services, you may not opt out of certain communications directly related to your Transactions or OFX Account.

27. Legal Process

We may be required to respond to and comply with valid legal orders affecting you, including but not limited to, writs of attachment, liens, subpoenas or other court orders ("Legal Process"). As a result, we may take certain actions such as holding payments, releasing your funds, or disclosing data or information about you or your Transaction to government agencies or other enforcement authorities. Unless prohibited by applicable law or regulatory requirements, we will make reasonable efforts to notify you of any such action. You acknowledge that we do not have any obligation to contest or appeal any Legal Process involving you. OFX is not liable for any losses, whether direct or indirect, that you may incur in relation to our response or compliance with a Legal Process.

28. Warranties and Representations

You represent, warrant and covenant that: (a) you are at least eighteen (18) years of age; (b) you are eligible to register and use the Services and have the right to enter into the Terms; (c) the information you provide to OFX about yourself, your business and your accounts maintained at other financial institutions is true, accurate and complete; (d) all Transactions initiated by you using the Services will comply with all federal, state and local laws, regulations and rules; and (e) you will not utilize the Services, directly or indirectly, for any fraudulent undertaking. If you are registering and using the Services on behalf of a business, you further represent and warrant that you have the authority to enter into this Agreement and bind the business.

29. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL OFX BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, LOSS OF GOODWILL OR ANY OTHER INTANGIBLE LOSSES (EVEN IF OFX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING OUT OF OR RELATED TO YOUR USE OF OFX SERVICES OR DELAY OR INABILITY TO USE OUR WEBSITE OR SERVICES

REGARDLESS OF THE TYPE OF CLAIM OR THE NATURE OF THE CAUSE OF ACTION.

UNDER NO CIRCUMSTANCES WILL OFX BE RESPONSIBLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICES OR YOUR OFX ACCOUNT, OR THE INFORMATION CONTAINED THEREIN.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, OFX'S TOTAL CUMULATIVE LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT IS LIMITED TO THE GREATER OF: (A) THE AMOUNT OF FEES EARNED BY US IN CONNECTION WITH YOUR USE OF THE SERVICES DURING THE THREE (3) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM FOR LIABILITY; OR (B) \$500.

THIS LIMITATION OF LIABILITY PROVISION APPLIES WHETHER OR NOT THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER BASIS, EVEN IF OFX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

The use of "OFX" in this Section 29 (Limitation of Liability) and Section 30 (Disclaimer of Warranty) means OFX, its processors and suppliers (and their respective affiliates, subsidiaries, agents, officers and employees).

30. Disclaimer of Warranty

THE OFX SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES OR REPRESENTATIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY. OFX SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.

OFX DOES NOT WARRANT OR GUARANTEE THAT THE SERVICES ARE ACCURATE, CORRECT OR RELIABLE; THAT THE SERVICES WILL MEET YOUR REQUIREMENTS; THAT THE SERVICE WILL BE AVAILABLE AT A PARTICULAR TIME OR LOCATION; THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, WITHOUT DEFECT OR SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE SERVICES ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

OFX makes every effort to processing transactions in a timely manner, but we make no representations or warranties regarding the time it takes to complete a particular Transaction because our Services are dependent upon many factors outside of our control. Additionally, OFX does not have any control of or liability for any acts or omissions of a Recipient, a Recipient's bank or any goods or services that are paid for using our Services.

Some jurisdictions do not allow the disclaimer of implied warranties, so the foregoing disclaimer may not apply to you.

31. Indemnification

You will defend, indemnify and hold harmless OFX (and our respective affiliates, subsidiaries, officers, directors, employees, contractors, agents, licensors and suppliers) from and against any and all claims, losses, judgments, damages, interest and expenses including without limitation reasonable attorneys' fees arising out of or relating to any claim, action, or other proceeding brought by any third party that arise out of or relates to: (i) any actual or alleged breach of your obligations, representations or warranties set forth in this Agreement; (ii) your wrongful or improper use of the Services; (iii) your violation of any federal or state law, rule, or regulation of the United States, or any other country; (iv) any other party's access and/or use of the Services using your log-in or security credentials.

32. Arbitration Agreement

PLEASE READ THIS PROVISION CAREFULLY AS IT AFFECTS YOUR RIGHTS AND LIMITS HOW CLAIMS BETWEEN US ARE RESOLVED. Additionally, it contains a waiver that prohibits class and representative actions and any other non-individualized relief against us. For purposes of this arbitration provision (the "Arbitration Agreement"), references to you or OFX also include respective affiliates, subsidiaries, employees, processors, suppliers, agents, successors and assigns as well as any other beneficiary of the Services.

a. Binding Arbitration.

You and OFX agree that any Disputes, except for actions brought in small claims court pursuant to subsection (c) or excluded under subsection (d), shall be resolved exclusively through final and binding arbitration by a single neutral arbitrator and not in a court of law. "Dispute" means any claim, controversy or dispute between you and OFX, including without limitation any state or federal statutory claim, common law claim or any claim based in contract, tort, fraud, misrepresentation or any other theory that arise from or relates to the breach, enforcement, interpretation or validity of any provision of this Agreement or the Terms. If there is a dispute about whether this Arbitration Agreement can be enforced or applies to our Dispute, you and OFX agree that the arbitrator will decide that issue as well.

b. Rules and Governing Law.

Arbitration shall be administered by the American Arbitration Association (referred to as the "AAA"). The AAA will apply the Commercial Arbitration Rules, except as modified in this Arbitration Agreement, to the arbitration of any Dispute, unless you are an individual and the Dispute concerns a transaction intended for personal, household or family purposes, in which case the Consumer Arbitration Rules (except as modified in this Arbitration Agreement) will apply. The AAA's rules are available at www.adr.org. Notwithstanding subsection (i) concerning substantive law, you and OFX each agree that this Arbitration Agreement evidences a transaction in interstate commerce and thus the Federal Arbitration Act [9 U.S.C. §§1-16] will govern the interpretation and enforcement of this Arbitration Agreement.

c. Small Claims Option.

As an alternative to arbitration, you may bring an individual action in small claims court in your county of residence (if a business, your principal place of business) so long as the Dispute meets all the jurisdictional qualifications and provided that the matter remains in small claims court and advances only on an individual (non-class, non-representative) basis.

d. Exceptions to Arbitration.

You and OFX agree that Disputes based on the following claims are exceptions to the Arbitration Agreement and will be brought in a judicial proceeding in a court of competent jurisdiction: (i) any claim related to actual or threatened infringement, misappropriation or violation of party's intellectual property rights; or (ii) any claim seeking emergency injunctive relief or other provisional remedies.

e. Notice of Dispute.

A party who intends to seek arbitration must first notify the other party in writing at least 30 days prior to initiating the arbitration. Notice to OFX should be sent either by mail to OFX, 49 Stevenson St, 13th Floor, San Francisco, CA 94105 Attn: Legal Department; or by email to Legal.Notices@ofx.com. Notice to you will be sent to your email address and/or street address that OFX has on file or associated to your OFX account. It is your responsibility to keep your contact information up to date. The notice must describe the nature and basis of the claim(s) the relief being sought. If we are unable to resolve the Dispute within 30 days of receipt of the notice, either party may proceed to file a claim for arbitration with the AAA.

f. Arbitration Fees.

Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules, unless otherwise stated herein. If your claim for damages does not exceed \$75,000, OFX will be responsible for any



initial filing fee in excess of \$200. You may be able to seek an award of attorney fees and expenses if you prevail in arbitration, to the extent provided under applicable law and the AAA rules. Unless the arbitrator determines that your claim was frivolous or filed for the purpose of harassment, OFX will not seek and hereby waives all rights it may have under applicable law or the AAA rules to recover attorneys' fee and expenses if it prevails in arbitration.

g. Arbitration Location and Attendance.

If you bring a Dispute related to a Transaction intended for personal, family or household purposes, any in-person arbitration hearing will be held in the county where you reside, unless another location is mutually agreed upon by the parties. In all other instances, any in-person hearing will be held in San Francisco, California. If the value of the relief sought is \$10,000 or less, you or OFX may elect to have the arbitration conducted by telephone or based solely on written submissions, which election shall be binding on both parties subject to the discretion of the arbitrator to require an in-person hearing. In the event that an in-person hearing is held, you or OFX may attend by telephone, unless the arbitrator requires otherwise.

h. Arbitrator's Decision.

The arbitrator's decision will include the essential findings and conclusions upon which the award is based. The arbitrator's award will be binding on both parties and any court of competent jurisdiction may enter judgment upon the arbitrator's award. An arbitrator's decision or judgment thereon will not have any precedential or collateral estoppel effect.

i. Class Action Waiver.

To the fullest extent permitted by law, both you and OFX each agree that any Dispute against the other must be brought on an individual basis only and not as a plaintiff or class member in any class, consolidated or representative action or proceeding. The arbitrator(s) may award relief (including monetary, injunctive and declaratory relief) only in favor of the individual party seeking the relief and only to the extent necessary to provide relief warranted by the individual party's claim. The arbitrator may not consolidate more than one person's claim and may not otherwise preside over any form or representative or class action. Any relief awarded by an arbitrator cannot affect or impact any other OFX customer. If this paragraph is held unenforceable with respect to any Dispute, then the entirety of the Arbitration Agreement will be deemed void with respect to such Dispute.

j. Jury Trial Waiver.

If for any reason, a Dispute proceeds in court rather than through arbitration, you and OFX irrevocably and knowingly waive any right to a trial by jury as to all arbitrable Disputes.

k. Settlement Offers.

Any settlement offer made by you or OFX shall not be disclosed to the arbitrator, unless and until the arbitrator issues an award on the claim.

l. Choice of Law and Forum.

The arbitrator shall apply the substantive law of the State of California, without regard to its conflict or choice of law principles. If for any reason a Dispute proceeds in court rather than through arbitration, all such Disputes arising out of or relating to this Agreement (other than small claims actions pursuant to subsection (b)) will be brought in the state courts located in the City and County of San Francisco, or federal court for the Northern District of California. In such cases, you and OFX hereby consent and submit to the exclusive personal jurisdiction of such courts.



m. Severability.

With the exception of the provisions concerning Class Action Waiver (Section 32(i)), if any other provision of this Arbitration Agreement is deemed invalid or unenforceable by a court of competent jurisdiction, such provision will be severed and the remainder of the Arbitration Agreement shall be given full force and effect.

33. Third-Party Services

The Services may be promoted by or made available or accessed in connection with services or products provided by certain non-affiliated third parties that OFX does not control, including but not limited to third-party developers that use OFX Services (“Third-Party Service”). Separate terms and conditions as well as privacy policies will apply to your use of Third-Party Services. We expressly disclaim any responsibility or liability for your use of and the performance of any Third-Party Service. All disputes arising from your use of a Third-Party Service must be resolved with that third party directly, and not OFX. When using a Third-Party Service, our Privacy Policy is no longer in effect and any personal information or data collected by that third party is subject to the Third-Party Service’s own privacy policy.

34. Governing Law

Any Dispute shall be governed by and construed under the laws of the State of California and/or applicable federal law (including the Federal Arbitration Act), without regard to its conflicts of law provisions.

35. Force Majeure

We are not liable for any failure or delay in processing or other nonperformance caused by telecommunications or utility failures, equipment failures, labor strife, riots, war, terrorist act, fire or other acts of nature or any event over which we have no reasonable control.

36. Assignment

Unless we provide prior consent, this Agreement and rights or obligations hereunder may not be transferred or assigned. OFX may assign this Agreement without your prior consent upon reasonable notice to you.

37. General Provisions

This Agreement and all policies and agreements incorporated by reference constitute the entire agreement between you and OFX for the provision of Services. Except where expressly stated otherwise, this Agreement will prevail over any conflicting policy or agreement related to the provision of Services. The failure of OFX to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of our right to enforce the same right or provision on a future date. If any provision of this Agreement is found to be illegal or unenforceable, that provision will be limited to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect. This provision shall not affect the severability and survivability provisions of the Arbitration Agreement.

38. Survival

Upon termination of this Agreement for any reason, the following sections of this Agreement, in addition to any payment obligations under the Terms and any other provision that in order to give proper effect to its intent, shall survive and remain in effect: Section 27 (Legal Process); Section 29 (Limitation of Liability); Section 30 (Disclaimer of Warranty); Section 31 (Indemnification); Section 32 (Arbitration Agreement); Section 34 (Governing Law); Section 37 (General Provisions); and Section 38 (Survival).

39. Contact Us

If you have questions about this Agreement or wish to provide feedback for us to consider, please contact us at info@ofx.com, by phone at 1-888-288-7354 or by sending written correspondence to: OFX, 49 Stevenson St, 13th Floor, San Francisco, CA 94105.