

## **Terms of Use for Yodlee Risk Insight Reports**

You now have the ability, through your Morgan Stanley Online (“MSO”) access, to submit a residential mortgage loan application or conditional preapproval request to Morgan Stanley Private Bank, National Association (“MSPBNA”) and (i) provide authorization to MSPBNA to obtain information about assets under your ownership or control that you hold with other financial institutions and/or which may be custodied outside of Morgan Stanley (“External Accounts”) and (ii) then view the information about your External Accounts as assets (the “Services”).

Your use of the Services through MSO is governed by the following terms and conditions (“Terms”) which supplement and are in addition to other terms and conditions or agreements to which you have agreed or entered into, including but not limited to, the MSO Electronic Services Agreement (“ESA”) that applies to your use of MSO and the Mobile Terms and Conditions (“Mobile Terms” and with the ESA, “other agreements”) that govern your use of the Morgan Stanley Mobile App (“MS App”), as applicable. If there are any conflicts between the other agreements and these Terms with respect to the Services, these Terms shall govern; provided that, the applicable indemnification, disclaimer of warranties and limitations of liabilities described in the ESA and/or the Mobile Terms also apply to your use of the Services. Before you can use the Services, you must review and accept these Terms.

Throughout these Terms, except in Section 1(A) (“*Who has Access to your Account Information?*”) below, the words “we,” “us,” or “our” refer to MSPBNA as well as their directors, officers, employees, and affiliates. The words “you,” “your,” “yours” mean you, the customer. The term “Account” means accounts, assets, and liabilities that you may hold with us and/or External Accounts. Unless otherwise stated in these Terms, capitalized terms used throughout have the meanings stated in the ESA and/or the Mobile Terms, as applicable.

### **1. Services Covered under these Terms**

The Services provide you with the ability to authorize us and our service provider, Yodlee, Inc. (“Yodlee”) *at your request* to access third parties and their third-party websites (“Third-Party Sites”) designated by you, on your behalf, and obtain information about your External Accounts. Upon your authorization, Yodlee will use your user name, password, and other account credentials to register for the External Accounts requested by you and request on your behalf that the applicable Third-Party Sites release certain External Account information not previously available to us and/or Yodlee in connection with a residential mortgage loan application or conditional preapproval request. The Services employ technology to allow you to retrieve information about your External Accounts stored on or available through Third-Party Sites.

If you elect to authorize Yodlee to access External Account information, MSPBNA will use such information for the purposes enumerated in our online privacy policy available on MSO and to evaluate your residential mortgage loan application or conditional preapproval request. In order to evaluate your residential mortgage loan application, MSPBNA may periodically, and without providing notice to you, “refresh” the External Account information obtained by Yodlee so that it is able to evaluate current and up-to-date information.

Your authorization expires after 120 days, and after this time, Yodlee will purge your External Account credentials and neither we nor Yodlee will have ongoing access to your External Account information. After this time, if we request additional or up-to-date information about your External Accounts, you may use the Services by re-authorizing Yodlee to access and obtain your External Account information as described above.

If you enroll in the Services, we may, in our discretion, request that you provide additional materials regarding your External Accounts, such as paper statements or other materials that are not accessed by Yodlee.

Additional features may be included in the Services and offered to you in the future, which features will be governed by these Terms and additional terms and conditions as we may advise you. The Services are currently provided to you free of any Services fee. We reserve the right to impose fees and charges. Notice will be made to you if there is a charge to you for the Services. Any such notice will be deemed received when made available to you in accordance with these Terms.

If you choose not to enroll in the Services, you may manually input details of your External Accounts into the residential mortgage loan application or conditional preapproval request in MSO (each a “Manually Added Account”) instead of authorizing us and Yodlee to obtain your External Account information. Should you choose to input a Manually Added Account, you will be asked to deliver copies of your External Account statements.

*A. Who has Access to your Account Information?*

In this Section 1(A) below, and only in this Section, the words “we,” “us,” “our” or “MSPBNA” refer to Morgan Stanley Private Bank, National Association (“MSPBNA”) as well as its directors, officers, and employees, but *not* any other affiliates.

We respect your privacy and work to maintain the privacy and security of your personal information. The privacy policy and security procedures governing these Services are available for your review at MSO through which the Services are made available to you. You acknowledge and agree that you have received and read those policies and procedures regarding the Services and other related confidentiality and security information including that contained in the ESA, Mobile Terms, our Privacy Notice(s) for clients, and for users of MSO, any online privacy policy regarding MSO and these Services before accepting these Terms.

Through your use of the Services, your Account information, including information about your External Accounts, will be accessed by employees, affiliates, and third-party service providers of MSPBNA, as described by and in accordance with our [Privacy Notice](#). Your Account information will also be accessed by Yodlee and any other third-party service providers authorized to service, support, administer, review or regulate your transactions, Accounts, e-mail communications, our business, and other services and business relationships with us in connection with these Services (“Service Providers”) as described in these Terms.

MSPBNA and its affiliates have entered into an agreement with Yodlee that prohibits Yodlee from disclosing or using your personal information, such as your Account information, except as

necessary for the specific purpose for which your personal information was disclosed. We also require Yodlee to implement, and comply with, technical, physical, and organizations safeguards and procedures designed to prevent unauthorized access, destruction, loss, misuse or alteration of your personal information.

*B. Appointment of MSPBNA and Yodlee as Agent for Limited Purpose*

By using the Services, you authorize us and our Service Providers to access Third-Party Sites, your External Accounts and External Account information designated by you, on your behalf, to retrieve such information requested by you through the Services and you hereby appoint us as your agent for this limited purpose.

You hereby authorize and permit us and our Service Providers to use information and content submitted by you to the Services (such as account passwords and user names) to accomplish the foregoing and to configure the Services so that it is compatible with the Third-Party Sites for which you submit your information.

For all purposes hereof, you hereby grant us and our Service Providers a limited power of attorney, and you hereby appoint us and our Service Providers as your true and lawful attorney-in-fact and agent, with full power of substitution and re-substitution, for you and in your name, place and stead, in any and all capacities, to access your External Accounts, External Account information, Third-Party Sites, servers or documents to retrieve information, and use your information, including External Account information, all as described herein, with the full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection with such activities, as fully to all intents and purposes as you might or could do in person.

You hereby represent to us that you are an owner of, a legal signer for, and/or are legally authorized to access each External Account and have the authority to designate us as your agent, use the Services and to give us your passwords, user names and all other information you provide. You hereby permit us to use information submitted by you to the Services to accomplish the foregoing. You may not use the Services to initiate transactions affecting your External Accounts or provide notices or instructions affecting such External Accounts. The Services will submit information, including user names and passwords that you provide to us, to log you into such Third-Party Site. Any transactions or other activities at such Third-Party Sites are not made through the Services and we assume no responsibility for such activities. You are responsible for all charges associated with Third-Party Sites and agree to comply with the terms of those Third-Party Sites. You agree that we and our Service Providers, and all other Service providers shall be entitled to rely on the authorization, agency and power of attorney granted by you in this Agreement.

**YOU ACKNOWLEDGE AND AGREE THAT WHEN WE, THROUGH OUR SERVICE PROVIDERS OR OTHERWISE, ACCESS AND RETRIEVE INFORMATION FROM YOUR EXTERNAL ACCOUNTS AND THIRD-PARTY SITES, WE ARE ACTING AS YOUR AGENT, AND NOT THE AGENT OR ON BEHALF OF THE THIRD PARTY. You agree that our Service Providers and the third party account providers shall be entitled to rely on the foregoing authorization, agency and power of attorney granted by you. You understand that the**

Services are not endorsed or sponsored by any such third-party account providers. You agree that neither we nor our Service Providers assume any responsibility and that we and our Service Providers shall incur no liability with respect to the acts, omissions or determinations of any provider of such Third-Party Site.

*C. Permissible Users of the Services.*

In order to register or use the Services, you must be at least 18 years old and legally capable to enter into contracts. You may not resell or otherwise provide other persons with access to the Services using your password or user name.

*D. Modification of the Terms.*

These Terms may be modified or updated from time to time by us without prior notice to you. Upon any material change to the Terms, at our sole discretion we will notify you by electronic mail, or by a link to or by posting of the new or different Terms on MSO. If you continue to use the Services after such modification or update, your continued use of the Services constitutes acceptance of the changes and an agreement to be bound by the Terms, as amended. If you do not agree to the changes, you agree to discontinue your use of the Services. You can review the most current version of these Terms at MSO through which the Services are made available to you.

*E. Services Limitations.*

You understand and agree that due to the nature of the Internet, we cannot always foresee or anticipate technical or other difficulties that might arise regarding the Services. These difficulties may result in loss of data, lost personalization settings or other Services interruptions. We cannot assume responsibility for the timeliness, deletion, loss, mis-delivery or failure to store any user data, communications or personalization settings.

*F. Standard of Care.*

Commercially reasonable efforts will be used to provide you with the Services. In addition to other limitations on liability set forth in these Terms, MSPBNA and its Service Providers shall incur no liability to you if the Services do not function as described because of the existence of any one or more of the following circumstances: (i) The Services are not working properly and you know or have been advised by us about the malfunction before you execute a transaction; or (ii) You have not provided us with the correct registration information, or other information used to provide the Services to you; and/or, circumstances beyond our control (such as, but not limited to, fire, flood, or interference from an outside force) prevent the proper execution of the requested Services and MSPBNA and its Service Providers have/has taken reasonable precautions to avoid those circumstances.

*G. Electronic Communications.*

This Agreement may be provided to you electronically on MSO [here](#). You may print a copy of this Agreement and retain it for your records.

*H. Revoking Authorization.*

After you provide your one-time authorization to MSPBNA to obtain information about your External Accounts, the information about your External Accounts will be reflected in the

residential mortgage loan application or conditional preapproval request you submit to MSPBNA. In the event that you decide to revoke your authorization during the mortgage loan application process, MSPBNA will not be able to refresh your External Account information and you may be asked to deliver copies of your External Account statements. You may revoke your authorization to use the Services by contacting your MSPBNA Relationship Manager at any time during the mortgage loan application process.

Regardless of your wish to revoke your authorization, your External Account information obtained by us for inclusion into your residential mortgage loan application or conditional preapproval request through your use of the Services may be retained by us for periods of time and in a form as determined by us or required or permitted by applicable law, rule or regulation, business practice or our policy or procedure.

#### *I. Limitations of your External Account Information*

Information related to your Manually Added External Accounts reflects only the information that you provide. You acknowledge that Manually Added External Account information is not updated by us and that we do not guarantee its accuracy, completeness or timeliness.

For any information related to your External Accounts obtained by Yodlee, this information reflects the most recent refresh by the Service Providers and may not be accurate or timely if a refresh was not successfully completed or the information obtained during the refresh from External Account is otherwise not accurate or current. For example, when displayed through the Services, External Account information is only as current a representation of the information on that Third-Party Site as the time shown, which reflects when Service Providers obtained the information from such Third-Party Site. You acknowledge that such information may be more up-to-date when obtained directly from the relevant Third-Party Site. Deposit account balances are ledger amounts, all of which may not be currently available for withdrawals or to pay checks. You should log on to your External Account directly via your Third-Party Site for available balance information.

Your External Account information is provided for inclusion in the residential mortgage loan application or conditional preapproval request you submit to MSPBNA. We have the right to inquire with you about any External Account information as it may relate to a residential mortgage loan application or conditional preapproval request, and in the event of a court order or request from a competent legal or regulatory authority, we may be required to provide such External Account information. Neither we nor our Service Providers shall be liable for any errors or delays in the content provided through the Services, or for any actions taken in reliance thereon. The trading and transactional Services that you may access at Third-Party Sites through the links on the Services, if any, are Services of the providers of such Third-Party Sites. The Services provides links to Third-Party Sites for your convenience and viewing only. Neither we nor our Service Providers endorse or recommend the Services of any Third-Party Site. The provider of the Third-Party Site is solely responsible for its Services to you, the user. Neither we nor our Service Providers shall be liable for any damages or costs of any type arising out of or in any way connected with your use of any External Account information and/or the Services of any Third-Party Site accessed by you through links on the Services.

*J. Third-Party Sites and Accounts: Terms, Information, Products and Services.*

When using the Services to access online services offered in connection with your External Accounts, you will be subject to the terms of any Third-Party Sites. You acknowledge that we are not responsible for those terms of service provided through or by third party financial institutions, custodians or Third-Party Sites, and if you have any problems with your External Accounts or Third-Party Sites you should contact the providers of such External Accounts and Third-Party Sites directly.

All of your External Account information available through the Services is provided by third parties. We make no effort to review nor are we responsible for the content of any Third-Party Site, including, but not limited to, the validity, legality, or copyright compliance of the content contained in these Third-Party Sites. You acknowledge that we do not pre-screen content, but that we and our representatives, agents, and designees will have the right (but not the obligation) in our or their sole discretion to refuse, edit, move or remove any content that is available via the Services. We are not responsible for the products and Services at Third-Party Sites. Any third-party information about securities and other investments available through the Services reflect independent opinions and are not recommendations of ours, MSO or the Service Providers. The information and content provided via the Services is provided for inclusion in the residential mortgage loan application or conditional preapproval request you submit to MSPBNA.

## **2. Your Additional Responsibilities**

*A. Provide Accurate Information.*

You agree to provide true, accurate, current and complete information about yourself and your External Accounts, including your Manually Added External Accounts, as requested in our enrollment process and you agree to not misrepresent your identity or your External Account information, which may include user names, passwords or other access devices for such External Accounts. You represent to us that you are an adult, that you are the owner or holder of each External Account and that you have the right to use and provide us any such External Account information. Without accurate records we will not be able to provide the Services to you. You therefore agree to keep your registration and External Account information up to date and accurate.

*B. Guard Your Password.*

You are responsible for maintaining the confidentiality of your password, user name, or other means that give you access to the Services (“Password”). You are fully responsible for all activities that occur using your Password. You agree to notify us immediately of any unauthorized use of your Password or any other threatened or actual breach of security. We will not be liable for any loss that you may incur as a result of someone else using your Password, either with or without your knowledge or consent. You may not use any other password but the Password assigned to you at any time to use or access the Services. You agree not to give or make available your Password to any unauthorized individuals. You are responsible for all actions that you authorize using the Services. If you permit any other person or third party to use the Services or your Password, you are responsible for any transactions they initiate using the Services. If you believe that your Password has been lost or stolen or that someone has used, or may attempt to use, the Services without your consent, you must notify us at once by calling the

Client Services Center at 1 (888) 454-3965 (24 hours a day, 7 days a week). If you are outside the United States, you can call collect at 1 (801) 617-9150. If you are a Morgan Stanley Private Wealth Management client, you should call the Private Wealth Management Helpdesk at 800-871-1646 for assistance.

*C. Obey the Law.*

You agree not to use the Services for illegal purposes or for the transmission of material that is unlawful, harassing, libelous (untrue and damaging to others), invasive of another's privacy, abusive, threatening, or obscene, or that infringes the rights of others.

*D. Proprietary Rights.*

You acknowledge and agree that we, including our affiliates, our Service Providers, and other licensor(s) own all rights to the Services and the content displayed on MSO and any intellectual or proprietary property and/or technology (in any form) made available to you as a part of or in conjunction with the Services. You are only permitted to use the Services and its content as expressly authorized by these Terms. You may not copy, reproduce, distribute, or create derivative works from this content. Further, you agree not to reverse engineer or reverse compile any of our technology, including but not limited to, any Java applets associated with the Services.

*E. Use of Marks, Materials and Suggestions.*

The names and logos and all related product and Services names, design marks and slogans, including but not limited to MSO and our Service Providers are the property of MSPBNA or our Service Providers. You are not authorized to use our names or marks in any advertising, publicity or in any other commercial manner without our prior written consent. You may use and copy the materials found on the Services for your own, noncommercial, informational Services only. All copies that you make of the material must bear any copyright, trademark or other proprietary notice which pertain to the material being copied. Except as authorized in this paragraph, you are not being granted a license under any copyright, trademark, patent or other intellectual property right in the material or the products, Services, processes or technology described therein. MSPBNA and/or any third party owner of such rights retain all such rights. Any feedback, questions, comments, suggestions, ideas or the like, which you send to us will be treated as being non-confidential and non-proprietary. We will also be free to use any ideas, concepts, know-how or techniques contained in such information for any purpose whatsoever including but not limited to developing, manufacturing and marketing products and Services incorporating such information.

*F. No Endorsements.*

All product and Services marks contained on or associated with the Services that are not our marks are the trademarks of their respective owners. References to any names, marks, products or Services of third parties or hypertext links to Third-Party Sites or information do not constitute or imply our endorsement, sponsorship or recommendation of the third party, information, product or Services.

*G. Errors and Questions*

In case of errors or questions about your use of the Services, please contact your MSPBNA Relationship Manager as soon as possible.

### **3. Rights You Grant to Us**

#### *A. Content You Provide and which is Derived by Use of the Services.*

Subject to the privacy policy regarding the Services otherwise referenced in these Terms, you are licensing to us and the Service Providers any information, data, passwords, user names, PINS, other log-in information, personal information, material and content obtained from your External Accounts, Third-Party Sites or materials or other data which you provide through or to us and the Services (collectively “Content”). MSPBNA and the Service Providers may use, modify, display, distribute and create new material using such Content to provide the Services to you. By submitting Content or using the Services, you automatically agree, or promise that the owner of such Content has expressly agreed that, without any particular time limit, and without the payment of any fees, we and our Service Providers may use the Content for the purposes described in these Terms. As between MSPBNA and a Service Provider, MSPBNA owns your confidential account information.

You understand and agree that the information we obtain about your External Accounts may be used to market products and services to you.

#### *B. Verification Authorization.*

You agree that some or all of the registration information you provide to the Services can be subject to a verification process.

#### *C. Access to your Records on MSO.*

In order to ensure that you receive a high quality Services that is responsive to your needs, you agree that our employees, Service Providers, consultants, auditors, attorneys and other agents and representatives may have access to your enrollment, use, activity and other records related to the Services as reasonably needed to investigate complaints, comply with applicable laws, administer our business and to Services your enrollment in and use of the Services.

### **4. Other Important Legal Matters**

#### *A. Disclaimer of Warranties.*

YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES AND ALL INFORMATION, PRODUCTS AND OTHER CONTENT (INCLUDING THAT OF THIRD PARTIES) INCLUDED IN OR ACCESSIBLE FROM THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. EXCEPT AS OTHERWISE STATED HEREIN, WE (INCLUDING OUR AFFILIATES) AND OUR SERVICES PROVIDER(S) EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, AS TO THE SERVICES AND ALL INFORMATION, PRODUCTS AND OTHER CONTENT (INCLUDING THAT OF THIRD PARTIES) INCLUDED IN OR ACCESSIBLE FROM THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF



MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.

THE INFORMATION AND MATERIALS CONTAINED IN THIS SITE, INCLUDING TEXT, GRAPHICS, LINKS OR OTHER ITEMS ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. NONE OF US, INCLUDING OUR AFFILIATES WARRANTS THE ACCURACY, ADEQUACY OR COMPLETENESS OF THIS INFORMATION AND MATERIALS AND EACH OF US, INCLUDING OUR AFFILIATES EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN THIS INFORMATION AND MATERIALS. NO WARRANTY OF ANY KIND, IMPLIED, EXPRESS OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND FREEDOM FROM COMPUTER VIRUSES, IS GIVEN BY US, INCLUDING OUR AFFILIATES IN CONJUNCTION WITH THE INFORMATION, MATERIALS, PRODUCTS OR SERVICES AVAILABLE THROUGH USE OF THIS SITE. WE AND OUR SERVICES PROVIDER MAKE NO WARRANTY THAT (i) THE SERVICES WILL MEET YOUR REQUIREMENTS, (ii) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE, (iv) USE OF SERVICES AND THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR EXPECTATIONS, AND (v) ANY ERRORS IN THE TECHNOLOGY WILL BE CORRECTED.

ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE 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. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR OUR SERVICE PROVIDERS OR THROUGH OR FROM THE SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS.

Some jurisdictions do not allow the exclusion of certain warranties. Accordingly, some of the above limitations may not apply to you.

TO THE EXTENT THAT ANY PART OF THIS SECTION IS NOT CONSISTENT WITH ANY OTHER PART OF THESE TERMS, THEN THIS SECTION WILL CONTROL.

*B. Third-Party Content.*

Through the Services, you may visit or be directed to Third-Party Sites containing information or material that may be offensive or inappropriate to some people. We make no effort to review nor are we responsible for the content of these sites, including, but not limited to the validity, legality, copyright compliance, or decency of the content contained in these sites. In addition, we do not endorse or control the content of any other user and are not responsible or liable for any content, even though it could be unlawful, harassing, libelous, privacy invading, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable, nor are we responsible or liable

for content that infringes or may infringe upon the intellectual property or other rights of another. You acknowledge that we do not pre-screen content, but that we and our representatives, agents, and designees will have the right (but not the obligation) in our or their sole discretion to refuse, edit, move or remove any content that is available via the Services.

*C. Limitation of Liability.*

THE FOREGOING SHALL CONSTITUTE OUR ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY. YOU AGREE THAT NEITHER WE (INCLUDING OUR AFFILIATES, SUBSIDIARIES, LICENSORS, AND SUPPLIERS) NOR OUR SERVICE PROVIDERS OR ANY OF THEIR AFFILIATES, ACCOUNT PROVIDERS OR ANY OF THEIR AFFILIATES, WILL BE LIABLE FOR ANY HARM, OFTEN KNOWN AS DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES, EVEN IF WE OR OUR SERVICE PROVIDERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, RESULTING FROM OR ARISING IN ANY WAY OUT OF: (i) THE USE OR THE INABILITY TO USE THE SERVICES AND/OR THE INSTALLATION, USE, OR MAINTENANCE OF ANY SERVICES RELATED EQUIPMENT OR SOFTWARE AND/OR THE SERVICES; (ii) THE COST OF GETTING SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY PRODUCTS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICES; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (iv) STATEMENTS OR CONDUCT OF ANYONE ON THE SERVICES; (v) THE USE, INABILITY TO USE, UNAUTHORIZED USE, PERFORMANCE OR NON-PERFORMANCE OF ANY THIRD-PARTY SITE, EVEN IF THE PROVIDER OF SUCH THIRD-PARTY SITE HAS BEEN ADVISED PREVIOUSLY OF THE POSSIBILITY OF SUCH DAMAGES; (vi) ANY PRODUCTS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO, THROUGH OR FROM THE SERVICES, (vii) THE SITE OR USE THEREOF OR INABILITY TO USE THE SITE BY ANY PARTY, OR IN CONNECTION WITH ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS OR LINE OR SYSTEM FAILURE, EVEN IF WE, INCLUDING OUR AFFILIATES, OR REPRESENTATIVES THEREOF, ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES OR EXPENSES, OR (viii) ANY OTHER MATTER RELATING TO THE SERVICES.

HYPERLINKS TO OTHER INTERNET RESOURCES ARE AT YOUR OWN RISK. THE PRODUCTS, SERVICES, INFORMATION, AND/OR MATERIALS OBTAINED THROUGH THIS SITE AND/OR THE SERVICES ARE PROVIDED AND SERVICED BY, AND SUBJECT TO THE TERMS, CONDITIONS AND/OR WARRANTIES, IF ANY, OFFERED BY THE RESPECTIVE THIRD-PARTY PROVIDER OF SUCH PRODUCTS, SERVICES, INFORMATION AND/OR MATERIALS. WE, INCLUDING OUR AFFILIATES, MAKE NO REPRESENTATION WITH RESPECT TO, AND SHALL NOT BE HELD LIABLE OR ACCOUNTABLE FOR, THE CONFORMITY OF THIRD-PARTY PRODUCTS, SERVICES,

INFORMATION AND/OR MATERIALS TO SUCH TERMS, CONDITIONS AND WARRANTIES.

Some jurisdictions do not allow the limitation or exclusion of liability for incidental or consequential damages. Accordingly, some of the above limitations may not apply to you.

*D. Indemnification.*

Except when caused by our intentional misconduct or gross negligence, you agree to protect and fully compensate MSPBNA and our affiliates, subsidiaries, licensors, suppliers and Service Providers from any and all third party claims, liability, damages, expenses and costs (including, but not limited to, reasonable attorneys' fees) caused by or arising from your enrollment in or use of the Services, your violation of these Terms or your infringement, or the infringement by any other user of your Password or Account or relationship with us, of any intellectual property or other right of anyone.

*E. Other.*

These Terms cannot be changed nor any of our rights waived unless we agree in writing or you continue using the Services following receipt of notice of any changes proposed by us. This Agreement is personal to you and you may not assign it to anyone.

You agree that the Service Providers are third party beneficiaries of these Terms, as applicable, with all rights to enforce such provisions as if such Services Provider were a party to these Terms. Neither we nor our Service Providers shall be considered an agent or other legal representative of the other for any purpose by reason of this Agreement. Each of us shall be an independent contractor, and nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture, or relationship of principal, agent or master and servant, employer or employee between us.

If any provision of these Terms is held to be unenforceable, then such provision shall be construed, as narrowly as possible, to reflect the intentions of the parties with the other provisions remaining in full force and effect. Any conflict regarding the Services between these Terms and the terms and conditions of other agreements that govern your relationship with or other Services provided by us or our Service Providers shall be resolved in favor of these Terms. These Terms constitute the entire understanding between you and us about the Services.

To the maximum extent permitted by applicable law, (a) these Terms shall be governed by and construed in accordance with the internal laws of the State of New York, without regard to its choice of law principles; (b) the exclusive jurisdiction for any action or proceeding arising out of or related to these Terms shall be a state or federal court located in the County and State of New York; and (c) You agree not to bring any such action or proceeding in any other venue or location. YOU HEREBY IRREVOCABLY WAIVE ANY RIGHT YOU MAY HAVE UNDER ANY APPLICABLE LAW TO A JURY TRIAL. You acknowledge that any breach or threatened breach by you of any provision of these Terms may cause us irreparable injury and damage and, therefore, that any such breach or threatened breach may be enjoined through injunctive proceedings in addition to any other rights and remedies that may be available to us at law or in equity.

*F. Exclusive Agreement.*

You agree that these Terms are the complete and exclusive statement of the agreement between you and us with respect to the Services, and that these Terms supersede any proposal or prior agreement, oral or written, and any other communications between you and us relating to the subject matter here. These Terms, as the same may be amended from time to time, will prevail over any subsequent oral communications between you and us.