

**FUTURA® PREPAID MASTERCARD® CARDHOLDER AGREEMENT  
IMPORTANT TERMS AND CONDITIONS - PLEASE READ CAREFULLY**

**1. Terms and Conditions.** This agreement outlines the terms and conditions set by Palm Desert National Bank, governs your use of the Futura® Prepaid MasterCard ("Card") issued by Palm Desert National Bank and supersedes any terms and conditions that you may have previously received (the "Agreement"). By accepting this Card, you agree to be bound by these terms and conditions. These terms and conditions are effective as of August 1, 2009 and replace any previous agreement of this Card. ALL SALES ARE FINAL and Cards may not be returned. Once activated, the Card is to be treated as cash. **PLEASE READ THIS AGREEMENT CAREFULLY AND KEEP IT FOR FUTURE REFERENCE.**

**2. Definitions.** (1) Our "Business Days" are Monday through Friday excluding certain holidays. Our authorized agents have their own business days, but Saturdays, Sundays and Federal holidays are not considered Business Days for purposes of this Agreement even if an authorized agent is open. (2) "Card" means the Futura® Prepaid MasterCard issued to you by Palm Desert National Bank (the "issuer" or the "Bank"). (3) "Card Account" means the records we maintain to account for funds that are available to you with the Card. (4) "You" and "your" mean the person whose name appears on the Card and who is authorized to use the Card as provided by this Agreement. (5) "We" "us" and "our" mean Futura Card Services, its successors and assigns, which functions as a Card distributor and servicer on behalf of the Bank. (6) "Temporary Card" means the Futura® Temporary Prepaid MasterCard that you receive at the time of purchase. The Temporary Card can only be reloaded a maximum of two (2) times, including the initial load, and can only carry a maximum balance of \$750.00. As soon as you register the Temporary Card you shall receive a Personalized Prepaid MasterCard within 10 business days. (7) "Personalized Card" means the Personalized Futura® Prepaid MasterCard that you will receive via mail within ten (10) business days of registering the Temporary Card. The Personalized Card is valid for a period of three (3) years.

**3. Usage Restrictions on Temporary Card.** At the time of purchase, you received a Temporary Card that can only be reloaded a maximum of two (2) times, including the initial load, and can only carry a maximum balance of \$750.00. As soon as you register the Temporary Card, you shall receive a Personalized Card within ten (10) business days. You must sign the back of the enclosed Temporary Card and activate it before using it for purchases or withdrawals. Please be aware that the number on your Personalized Card will be different from your Temporary Card and, as such, you should not enroll in any recurring payment plans using the Temporary Card number. You should wait for your Personalized Card to arrive to enroll in any recurring payment plan. After you activate your Personalized Card, any funds on your Temporary Card can be transferred to your Personalized Card online at [www.futuracards.com](http://www.futuracards.com) or by calling the number on the back of your card. Thereafter, please destroy the Temporary Card by, for example, cutting it in half.

**4. Loading the Card.** The Card is a prepaid card where funds can only be added to the Card Account by loading the Card. The Card can be loaded with cash at any authorized retail loading center. It can also be loaded via card-to-card money share or via ACH using direct deposit. Please note that only funds that have been loaded on the Card are available for purchases and withdrawals. The funds that are available are recorded in your Card Account. Please visit [www.futuracards.com](http://www.futuracards.com) or call the toll-free number on the back of your card to find the nearest authorized retail loading center. The value of the funds available on the Card at any given time is referred to in this Agreement as the "Available Funds."

**5. Personal Identification Number ("PIN").** Your PIN is a security feature which will be needed for certain transactions including all ATM withdrawals. It identifies you as the proper user of the Card and authorizes transactions that you make with the Card. You should never write your PIN on your Card, keep it with your Card, or reveal it to any unauthorized person. You should contact us immediately if you believe that anyone has gained unauthorized access to your PIN. You should not reveal the PIN to anyone and you assume full responsibility for any and all PIN transactions. If you believe that your PIN has been stolen and that unauthorized transactions are occurring on your card, Please contact us immediately at the number on the back of your card so that we may close the Card and issue you a new Card. Please note that if you lose or forget your PIN there is a \$4.95 fee for the issuance of a new PIN.

**6. Using the Card.** So long as you do not exceed the funds available in your Card Account, you may use the Card to purchase goods or services wherever MasterCard® debit cards are accepted, Cirrus® or STAR® is accepted, and to obtain cash by initiating cash withdrawal transactions through the Card from any financial institution or ATM that accepts MasterCard. Each time you use the Card, you authorize us to reduce the funds available in your Card Account by the amount of the purchase or withdrawal in addition to any applicable fees, costs or holdings. There is no credit line associated with your Card. This means that at the time of the transaction you must have sufficient funds loaded onto the Card to pay for the transaction and any applicable fees and you are never allowed to exceed the available balance in your Card Account. Nevertheless, if you exceed the available balance you shall remain fully liable to us for the amount of the transactions and any applicable fees and charges. You can get a receipt at the time you initiate a transaction and you should retain the receipt to verify your transactions.

**7. Your Duties as a Cardholder.**

As a cardholder, you acknowledge and agree to the following:

- You must maintain a sufficient balance on your Card to pay for each transaction and all applicable fees. If you attempt a transaction for more than the available balance on your Card, the transaction may be declined.
- You agree that we may deduct the amount of your transactions and applicable fees, and any other amount you owe us in connection with any Temporary Card or Personalized Card usage, directly from your Card.
- You must pay us immediately on demand if, for any reason, your Card does not have a sufficient balance to cover the amount of a transaction and amounts owed to us.
- You will take reasonable steps to protect the security and confidentiality of your PIN.
- You will notify us right away if you believe your Card or PIN has been lost or stolen or that someone has used or may use your card or PIN without your permission.
- You will not authorize anyone else to use your Card.

**8. Limitations on Use.** You may be denied the right to use the Card if you (1) exceed the \$1,000.00 daily ATM withdrawal limit (Note: the daily limit is \$250 on your temporary card), (2) do not have adequate funds available in your Card Account for the transaction, (3) do not enter the correct PIN, or (4) exceed the frequency of use limitations set forth below. You do not have the right to stop payment on any purchase or withdrawal originated through your Card. You do not have overdraft protection for your Card.

The following transaction, balance, and frequency of use limitations apply:

- The maximum balance on your Temporary Card is \$750.
- The maximum balance on your Personalized Card is \$9,500.
- You are permitted a maximum of two loads per day, and sixteen loads per month.
- Maximum Direct Deposits on personalized cards is \$5,000 per day, Direct Deposit are not authorized on Temporary Card.

Excluding Direct Deposits from your Employer, the maximum amount that may be loaded in a single transaction onto your Card per day is \$1,999, barring retail reload location limits, which may be less. Please contact your local reloading location for more information.

The minimum that may be loaded onto your card in a single transaction is \$10. For security reasons, there may be additional limits on the amount that may be loaded in a single transaction at a participating retail reload location.

The maximum amount that may be transferred from one card to another card is \$1,999.00 per day and \$2,500.00 per week.

The maximum amount that can be withdrawn by ATM per day is \$250.00 for the Temporary Card and \$1,000 for the Personalized Card, please note that most banking institutions have a withdrawal limit of \$400.

When loading at a participating Western Union location, please note that the maximum amount that may be loaded per day is \$950.00.

You may not use the Card for any illegal or restricted transaction.

If you authorize a transaction, the approval may result in a hold for amount of the transaction for up to thirty days even if you do not complete the purchase. A hold (which may be for more than the actual amount of transaction) also may be placed by the merchant in connection with a hotel or car rental transaction. THE CARD IS AND REMAINS THE PROPERTY OF THE ISSUER, IS NON-TRANSFERABLE AND, SUBJECT TO APPLICABLE LAW, MAY BE CANCELLED, REPOSSESSED OR REVOKED AT ANY TIME WITHOUT PRIOR NOTICE.

**9. Merchandise Returns.** PLEASE BE AWARE OF THE MERCHANT'S RETURN POLICIES PRIOR TO COMPLETING THE TRANSACTION. If you wish to return any merchandise purchased with the Card, you will be subject to the Merchant's return policies. Futura Card Services, the Bank, MasterCard®, and their affiliates employees, and agents are not responsible for the services or merchandise purchased with the card. The Bank is not responsible for the return or exchange of merchandise purchased with the card. By use of this Card, you, the cardholder, agree that the issuer is not liable for any consequential damages, direct or indirect. Exchange or return of merchandise purchased in whole or in part with the Card is governed by the policies of each merchant and applicable law. If the Merchant agrees to issue a credit to the Card, such funds may not be available for up to seven (7) business days.

**10. No Warranty Regarding Goods and Services.** Except as expressly otherwise provided in this Agreement, we make no representations or warranties of any kind to you, whether express or implied, and, therefore, we are not responsible or liable to You for the quality, safety, legality, or any other aspect of any goods or services purchased from any Merchant with your Card. If you have a dispute with a Merchant, you agree to settle the dispute directly with the Merchant.

**11. Foreign Transactions.** If you make a transaction in a currency other than in U.S. Dollars, the foreign amount will be converted into U.S. Dollars. This conversion will be at the MasterCard® exchange rate plus a currency conversion fee of up to 2.00% of the amount of the transaction. The conversion may occur on a date subsequent to the date of the transaction and as such the rate of conversion may be different at that time than at the time of purchase. Cardholder agrees to pay the converted amount.

**12. Monthly Statements.** Monthly statements are available upon request. We will mail a monthly statement to you at the address shown in our files and may charge a fee for providing the monthly statement service. The statement will contain certain information concerning the transactions conducted with your Card, including the dates, type, terminal location (for ATM withdrawals), and amounts of the transactions, the beginning and closing balances, fees assessed against the Card during the period, and addresses and telephone numbers for inquiries. You may request a written copy of a particular statement for a \$2.95 fee by calling the number on the back of the Card. Also, you can check the Card Account balance and recent activity by calling the number on the back of the Card or online for free at [www.futuracards.com](http://www.futuracards.com).

**13. Fees and Pricing Plans.** You have already paid a non-refundable purchase price for the Card if purchased at a retail store and made an initial load to the Temporary Card at the time that it was purchased. When using the Temporary Card you will be charged the fees listed in the Fee Schedule below. In addition, when you register and order your Personalized Card you may select either the Pay-As-You-Go Plan or the Unlimited Usage Plan. When enrolling for a Card online you may receive a one-time activation fee of up to \$9.95 on your first load. When using your Personalized Card, you will be charged the fees listed in the Fee Schedule below based on the plan you choose.

Transaction Type	Temporary Plan	Pay-As-You-Go Plan	Unlimited Usage Plan	Comments
Account Maintenance	\$1.95/Week	FREE	\$1.50/Week	
PIN POS Purchase	\$1.95	\$1.95	FREE	
POS Signature	FREE	\$0.95	FREE	
ATM	\$2.95	\$2.50	\$1.95	
ATM-International	\$4.95	\$4.95	\$4.95	
ATM-Balance Inquiry	\$0.75	\$0.75	\$0.50	
ATM-Balance Inquiry International	\$1.50	\$1.50	\$1.50	
Cash Back at POS	FREE	FREE	FREE	
Card to Card Money Share	FREE	\$2.50	FREE	
Card to Bank Funds Sharing	\$4.95	\$4.95	\$4.95	
PIN Rejection	FREE	FREE	FREE	
Paper Statement	NA	\$2.95	\$2.95	Per request
Online Statement	NA	FREE	FREE	
Replacement Card	\$4.95	\$4.95	\$4.95	Per request
Card Balance Refund Fee - Paper Check	\$9.95	\$9.95	\$9.95	Per request
Account-to-Account Debit Payment	\$0.95	\$1.95	FREE	
Bank Cash Advance	\$4.95	\$4.95	\$4.95	
Reload	Varies by Retailer	Varies by Retailer	Varies by Retailer	
ACH Rejection	\$0.95	\$0.95	\$0.95	
Inactivity Fee (After 90 Days)	\$6.95	\$6.95	\$6.95	
Direct Deposit	NA	FREE	FREE	Fill out form that comes with personalized card or visit <a href="http://www.futuracards.com">www.futuracards.com</a>
Bill Pay	NA	\$0.95/Bill	\$0.95/Bill	Sign up online at <a href="http://www.futuracards.com">www.futuracards.com</a>
Account Alerts	NA	FREE	FREE	Sign up online at <a href="http://www.futuracards.com">www.futuracards.com</a>
Automated Customer Service (VRU)	FREE	FREE	FREE	
Live Customer Service	*FREE/\$2.95	\$1.95	*FREE/\$1.95	*FREE indicates 1 live customer service call per month at no charge. After which, standard fees apply.
Foreign Transaction Fee	2%	2%	2%	

**14. Your Liability for Unauthorized Transactions, Lost or Stolen Card.** Your Card is the same as cash and the loss, theft or unauthorized use of your Card could cause you to lose all amounts in your account. You are responsible for all transactions initiated through the use of your Card, including any PIN-based transactions, any transactions initiated by presenting the Card number only and any authorized transactions initiated by someone else. You must report unauthorized transactions immediately, or notify us immediately if you believe your Card has been lost or stolen, by calling us at (888) 648-2753. ONLY TRANSACTIONS DETERMINED TO BE FRAUDULENT OR UNAUTHORIZED THAT OCCUR AFTER NOTIFICATION TO US WILL BE CREDITED TO THE CARD ACCOUNT. Therefore, it is imperative that you notify us immediately upon discovery of unauthorized use, loss or theft of the Card. You are responsible for transactions that occur between the time the card is lost or stolen and the time we are actually notified. When reporting a lost or stolen card, you will be required to provide us with your name, the Card number, your most recent transaction(s) and any other personal information necessary to verify your identity and your ownership of the Card. Once this information is verified, we will either reissue a Card or refund the remaining balance, subject to the \$4.95 replacement card fee or \$9.95 refund processing fee in the Fee Schedule, above, and subject to the settlement of any pending transactions on the Card Account. Please be advised that we reserve the right to require an affidavit confirming the information you provide related to your lost or stolen card prior to the issuance of a replacement card or refund. Please also be advised that it is your responsibility to take reasonable measures to safeguard your card from loss or theft and failure to take such measures may result in the denial of any lost or stolen funds. You agree to fully cooperate with us in our investigation of any possible unauthorized use of your Card.

**15. Card Security.** This Card is equivalent to cash and should be treated as such. It may be used without a personal identification number (PIN) to make purchases. Therefore, if you lose your card, someone will be able to use its remaining value.

**16. Signature on Card.** Before using your Card, you must sign your signature on the back, where indicated. Write down the Card number and the toll-free number on the back of the Card on a separate piece of paper in case the Card is lost or stolen. If you are required to activate the Card, instructions will be provided with the Card. We reserve the right to delay activation and use of the Card for up to twenty-four (24) hours after purchase. During activation or any Customer Service call, we may request that you provide the card security code printed on the front and/or back of your Card, as well as additional identification information including, but not limited to, your name, your address, home phone number, date of birth, zip code, and a form of identification. We may use this data for a range of purposes, including but not limited to facilitating refunds if the Card is lost or stolen, enhancing usage at Merchants that may require zip code authorization, and aiding in collection efforts in the event of a "Shortage." We will hold your information in confidence in accordance with the section below entitled "Data Protection and Privacy".

**17. No Warranty of Availability or Interrupted Use.** From time to time, the Card service may be inoperative, and when this happens, you may be unable to use your Card or obtain information about your Available Funds. Please notify us immediately if you have any problems using the Card. By use of the Card, you agree and accept that we are not responsible for any interruption of service.

**18. Error Resolution. WE ARE RESPONSIBLE FOR RESOLVING ANY ERRORS IN TRANSACTIONS MADE WITH YOUR CARD AND ALL QUESTIONS ABOUT TRANSACTIONS MADE WITH YOUR CARD SHOULD BE DIRECTED TO US RATHER THAN TO THE ISSUER OF THE CARD.** Telephone us at the number on the back of the Card or write us via our website [www.futuracards.com](http://www.futuracards.com) or mailing address, Futura Card Services PO Box 230946, Encinitas, California 92023-0946, if you believe that your statement or receipt reflects an error or for more information about a transaction listed on the statement or receipt. Please provide your name and Card number, the dollar amount of the suspected error or transaction, the type of transaction, and explain as clearly as you can why you believe that there is an error or why you need more information. We must hear from you no later than sixty (60) days from the date the transaction occurred and, if you provide this information orally, we may require verification with a written explanation within ten (10) business days.

We will determine whether an error occurred within ten (10) business days of hearing from you and will correct any error promptly. If we need more time, however, we may take up to forty-five (45) days to investigate your complaint or question, but will provisionally credit your Card Account within ten (10) business days for the amount you believe is in error, so that you will have the use of the money during the time it takes us to complete our investigation. However, if we require verification with a written explanation of your complaint or question and we do not receive it within ten (10) business days; we may not credit your account.

For errors involving new Cards, point-of-sale debit card transactions, or foreign-initiated transactions, we may take up to 90 days to investigate your complaint or question and for new accounts, we may take up to 20 business days to credit your Card Account for the amount you believe is in error.

We will send you our conclusion within three (3) business days of completing our investigation. If we decide that there was no error, we will send you a written explanation and may debit any provisional credit from your Card Account. You may ask for copies of the documents that were used in our investigation.

We are not responsible for the delivery; quality, safety, legality or any other aspect of the goods and services purchased from Merchants with the Card. Any disputes concerning those matters should be addressed to the Merchants from whom the goods and services were purchased.

**19. Address or Name Changes.** You are responsible for notifying us of changes in your address or telephone number within two weeks of the change. We will attempt to communicate with you only by use of the most recent address and telephone number that you provided to us and you agree that any notice or communication sent by us to the address or telephone number noted in our records shall be effective unless we receive notice of change of the address or telephone number from you.

**20. Unclaimed Property.** If we have no record of Card activity for several years, applicable law may require us to report the balance on the Card as unclaimed property. If this occurs, we may try to locate the owner of the Card at the address shown in our records. If we are unable to locate you, we may be required to deliver any value remaining on the Card to the state as unclaimed property.

**21. Changing the Terms and Conditions, Amendment and/or Cancellation.** We may change the terms of, or add new terms to, these Terms and Conditions at any time, with or without cause, and without giving you notice, in accordance with applicable law. Further, if the change is made for security reasons, we can implement the change without prior notice. Any changes to the Terms and Conditions are maintained online at <http://www.futuracards.com>, and replace any previous Agreement of this Card. In addition, we may suspend, cancel, add, modify or delete any feature offered in connection with your Card at our sole discretion at any time, with or without cause, and without giving you notice, subject to applicable law. If we cancel your Card, any Available Funds remaining on the Card upon such cancellation, after payment of all applicable charges and fees, will be returned to you. You may cancel this Agreement by telephoning or writing us and you may be charged a \$9.95 refund processing fee. Upon cancellation, you will no longer be able to use the Card and it should be destroyed. A paper check for the balance remaining in your Card Account less the refund processing fee will be mailed to you. Your cancellation of the Agreement will not affect any of our rights or your obligations that arose prior to the cancellation.

**22. No Interest.** You will not receive any interest on Available Funds.

**23. Tracking Available Funds.** As you use the Card, the Available Funds will be reduced by the full amount of each purchase including taxes, and any other fees. You are responsible for tracking your Card's Available Funds, including all transactions and account balances. To obtain your Available Funds balance or to request information about previous transactions, you can check your balance anytime by calling the toll-free number on the back of the Card or visiting our website at [www.futuracards.com](http://www.futuracards.com). Each telephone balance inquiry may incur a fee (see Fees Schedule, above) which will be assessed against your Card balance. There is no fee for checking your Card balance online at [www.futuracards.com](http://www.futuracards.com).

**24. Transactions Where Funds May Be Held Until Settlement.** To use your Card at a gas station it is recommended that you pay inside. Paying inside will avoid having an additional portion of your card balance (up to \$75.00) held and unavailable for use for a period of time after the use of the card at the pump. Certain Merchants, such as hotels and car rental agencies may cause an "authorization" or a "hold" on your available balance for up to 90 days for a portion of funds above the actual transaction amount to ensure that there are adequate funds available for the purchase. You are only charged the actual amount of the purchase at the time the transaction is settled, but a portion of your funds may be unavailable prior to settlement. Lastly, certain merchants may authorize/approve an amount as high as 25% above the actual purchase price; this is done to take into account tip/gratuity. Please be advised that while this additional amount may be unavailable for up to ninety (90) days, your Card will only be charged the actual amount of the purchase at the time the transaction is settled. Please note that we may not manually release authorizations without a certified letter or fax from the merchant. In addition, if you commence a purchase and the merchant obtains an authorization, and then you cancel the purchase without completing it, the authorization may result in a temporary hold for that amount of funds for 10 days, or longer in some cases.

**25. Recurring and Pre-Authorized Transactions.** Cardholder shall not make any preauthorized or recurring payments using the Temporary Card, such as assigning the card to pay a recurring monthly utility bill. One-time payments are acceptable. Preauthorized or recurring payments using the Personalized Card are acceptable.

**26. Card Valid Thru Date.** The Card is valid and usable until it is past the expiration date embossed on the Card. If there is a balance remaining after the expiration date, for a period of 24 months, or longer where required by law, you may call our customer service center at the number on the back of your card and request that the remaining balance be transferred to a new Card or refunded to you. There is a \$4.95 fee to reissue a replacement card for the Unlimited Usage Card and a \$9.95 fee to reissue a replacement card for a Pay-As-You-Go Card, in addition there is a \$9.95 refund processing fee to close your account and issue a paper check.

**27. Refusal of Card.** We are not responsible or liable to you if any Merchant refuses to honor the Card or for any other problems you may have with any Merchant. If a Merchant fails to honor the Card, please call our customer service to report the incident.

**28. Transactions in Excess of Available Funds.** If you attempt to use the Card when there are insufficient Available Funds for the particular transaction (e.g., \$100 purchase when the Card only has \$75 in Available Funds), and the Merchant does not fulfill a request to process a "split tender" transaction, the transaction will usually be declined. However, if due to a systems malfunction or for any reason whatsoever, a transaction occurs despite insufficient Available Funds on the Card (creating a negative amount on the Card, referred to herein as a "Shortage"), you agree to reimburse us, upon request, for the amount of the Shortage.

**29. Data Protection and Privacy.** We collect nonpublic personal information about you in order to understand your needs, administer our business, process your transactions, and provide you with products and services. We obtain nonpublic personal information about you from the following sources:

- Information you provide to us by telephone, on applications, in membership requests, at our web site, and on other forms (such as your name, address, telephone number and date of birth);
- Information about your transactions with us, joint marketers, or others (such as your card balance, payment history, parties to transactions, and card usage);
- Information we receive from a consumer-reporting agency (such as your creditworthiness and credit history). We may disclose all of the information we collect, as described above, to financial institutions with whom we have joint marketing agreements, such as insurance agents and card issuers, so that they can market goods and services to you. We also may disclose:
- Some of this information, such as your name and address, to companies that perform marketing services on our behalf (e.g., to companies that assist us with mailings).
- Information about your card, membership, and transactions; (a) where it is necessary or helpful to effect, process or confirm your membership and transactions; (b) to verify the existence and availability of funds associated with your card; (c) to comply with legal process, such as subpoenas and court orders; (d) to law enforcement authorities if we believe a crime has been committed; and (e) if you give us your consent.

We do not disclose nonpublic personal information about our current or former customers to unaffiliated third parties except as set forth in this policy or as permitted by law.

**Information Security.** We restrict access to nonpublic personal information about you to our employees who have a need to know such information (e.g., to process your transactions). We train our employees on the importance of customer privacy and confidentiality. We also maintain physical, electronic, and procedural safeguards that comply with federal standards to guard the nonpublic personal information of our customers.

**Other Privacy Rights.** We will comply with applicable state laws regarding the information we share about you. Certain state laws restrict the types of information that we may disclose about you or require that we provide you with additional notices or opt-out rights. If our records reflect that you are a resident of Vermont, for example, our sharing of information about you with nonaffiliated third parties with whom we have joint marketing agreements will be limited to information about your name, contact information, and our own transactions and experiences with you.

**30. Governing Law/Jurisdiction.** This Agreement will be governed by and interpreted in accordance with Federal law and, to the extent Federal law does not apply, by the laws of the State of California. You consent and submit to the exclusive jurisdiction of the state and federal courts located in San Diego, California in all controversies arising out of or in connection with the use of the Card and this Agreement.

**31. Void Where Prohibited.** Not all services described in this Agreement are available to all persons or at all locations. We reserve the right to limit, at our sole discretion, the provision of any such services to any person or in any location.

Any offer of a service in this Agreement shall be deemed void where prohibited.

**32. Non-Assignability.** You may not assign or transfer this Agreement or any of your rights or obligations under this Agreement. Any attempt to the contrary shall be null and void. This Agreement shall be binding on you, your executors, administrators, and any permitted assigns.

**33. Entire Agreement.** This Agreement sets forth the entire understanding and agreement between you and us, whether written or oral, with respect to its subject matter and supersede any prior or contemporaneous understandings or agreements with respect to their subject matter.

**34. Severability.** If any of the terms of this Agreement are invalid, changed by applicable law or declared invalid by order of court or regulatory authority, the remaining terms of this Agreement shall not be affected, and this Agreement shall be interpreted as if the invalid terms had not been included in this Agreement.

**35. Arbitration of Claims.** Please read this provision carefully. It provides that to the extent permitted by law, certain disputes will be resolved by binding arbitration instead of litigated in court. IF ARBITRATION IS CHOSEN BY ANY PARTY WITH RESPECT TO A CLAIM, NEITHER YOU NOR WE SHALL HAVE THE RIGHT TO LITIGATE THAT CLAIM IN COURT OR HAVE A JURY TRIAL ON THAT CLAIM. FURTHER, YOU AND WE WILL NOT HAVE THE RIGHT TO participate in a class action, REPRESENTATIVE ACTION or similar proceeding PERTAINING TO any claim subject to arbitration. In arbitration, a dispute is resolved by an arbitrator rather than by a judge or jury and the arbitrator's decision will be final and binding. Discovery may be more limited in arbitration than in a court proceeding, and the right and grounds to appeal from an arbitrator's award are more limited than in an appeal from a court proceeding.

Arbitration procedures are generally simpler and more limited than court procedures.

In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If they do not reach solution within a period of sixty (60) days, then upon notice by either party to the other, all disputes, claims, questions, or disagreements shall be finally settled in accordance with the provisions of the American Arbitration Association ("AAA") and proceed under the provisions of Title 9 of the California Code of Civil Procedure Sections 1280 through and including 1294.2. The discovery provisions of the California Code of Civil Procedure Section 1283.05 shall be applicable to this Agreement.

**Other Claims Subject to Arbitration.** In addition to Claims by YOU or us, Claims made by or against anyone connected with YOU or the Bank or claimed through you or the Bank, including an Authorized User, Registered User, employee, agent, representative, affiliated company, predecessor or successor, heir, assignee, or trustee in bankruptcy shall be subject to arbitration.

How the Arbitration Works. All Claims shall be resolved on an individual basis by binding arbitration by the American Arbitration Association (the "AAA"), under its Arbitration Rules for the Resolution of Consumer-Related Disputes. There shall be no right or authority for any claims to be arbitrated on a class action basis or on any involving claims brought in a purported representative capacity on behalf of the general public, other Card holders or other persons similarly situated. You may obtain copies of the current rules, forms and instructions for initiating an arbitration by contacting: American Arbitration Association, 335 Madison Avenue, Floor 10, New York, New York 10017-4605. Website: [www.adr.org](http://www.adr.org), 800-778-7879 (toll free). If the AAA is not available or is unwilling administer the arbitration, the arbitration will be administered by the National Arbitration Forum ("NAF"), under the NAF Code of Procedure then in effect. You may obtain information about how to initiate arbitration from NAF at [www.arbitration-forum.com](http://www.arbitration-forum.com), or by writing to NAF at P.O. Box 50191, Minneapolis, MN 55405.

**Survival.** This arbitration provision shall survive: (i) the termination of this Agreement; (ii) the bankruptcy of any party; and (iii) any transfer, sale or assignment of your Card, or any amounts owed on your Card, to any other person or entity. If any portion of this arbitration provision is deemed invalid or unenforceable, the remaining portions shall nevertheless remain in force. Any different agreement regarding arbitration must be agreed to in writing.

**Acknowledgement.** Your Card is being made available and priced by Bank on the basis of your acceptance of this arbitration clause. By accepting your Card, you acknowledge that you are giving up the right to litigate Claims if either party elects arbitration of the Claims pursuant to this clause, except as otherwise expressly provided herein, and you hereby knowingly and voluntarily waive the right to trial of all Claims subject to this Agreement. You further acknowledge that you have read this arbitration provision carefully, agree to its terms, and are entering into this Agreement voluntarily and not in reliance on any promises or representations whatsoever except those contained in this Agreement.

This card is issued by Palm Desert National Bank pursuant to a license by MasterCard International Incorporated. MasterCard is a registered trademark of MasterCard International Incorporated. Futura is a registered MSP of Palm Desert National Bank.