

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

IN RE: HIGHER ONE ONEACCOUNT MARKETING
AND SALES PRACTICES LITIGATION

No. 3:12-md-2407 (VLB)

JURY TRIAL DEMANDED

THIS DOCUMENT RELATES TO:

Price, et al. v. Higher One Holdings, Inc., et al.
D. Conn. Case No. 3:12-cv-01093-VLB

Parker, et al. v. Higher One Holdings, Inc., et al.
N.D. Miss. Case No. 1:12-cv-00154-NBB-DAS
D. Conn. Case No. 3:12-cv-01788-VLB

Kent, et al. v. Higher One Holdings, Inc., et al.
M.D. Ala. Case No. 2:12-cv-00712-NHT-TPM
D. Conn. Case No. 3:13-cv-00048-VLB

Massey, et al. v. Higher One Holdings, Inc., et al.
S.D. Ill. Case No. 3:12-cv-01149-MJR-SCW
D. Conn. Case No. 3:12-cv-01808-VLB

Lanham, et al. v. Higher One Holdings, Inc., et al.
W.D. Ky. Case No. 3:12-cv-00693-S
D. Conn. Case No. 3:12-cv-01811-VLB

JEANETTE PRICE,
RHONDA HANNIBAL,
BRANDI CRAWFORD,
PRINCE KAYWOOD,
GAYNELL KAYWOOD,
TARSHA CROCKETT,
KRISTINE KRIEG,
ASHLEY PARKER
JOHN BRANDON KENT,
BRIANNE ELIZABETH KENT,
JONATHAN LANHAM, and
LARRY FORMAN

v.

HIGHER ONE HOLDINGS, INC.,
THE BANCORP BANK, and
WRIGHT EXPRESS FINANCIAL SERVICES
CORPORATION

CONSOLIDATED AMENDED CLASS ACTION COMPLAINT

Plaintiffs, Jeanette Price, Rhonda Hannibal, Brandi Crawford, Prince Kaywood, Gaynell Kaywood, Tarsha Crockett, Kristine Krieg, Ashley Parker, John Brandon Kent, Brianne Elizabeth Kent, Jonathan Lanham, and Larry Forman (collectively, “Plaintiffs”), through their undersigned counsel, on behalf of themselves and all persons similarly situated, allege the following based on personal knowledge as to allegations regarding the Plaintiffs and on information and belief as to other allegations.

INTRODUCTION

1. This is a class action seeking monetary damages, restitution, and declaratory relief from Defendants, Higher One Holdings, Inc., (“Higher One”), The Bancorp Bank (“Bancorp”), and Wright Express Financial Services Corporation (“Wright”) (collectively, “Defendants”), arising from their unfair and unconscionable practices of automatically creating bank accounts for college students, depositing students’ financial aid funds into Higher One accounts without students’ permission, deceptively discouraging students from opting-out of such accounts, and assessing deceptive and unusual bank fees on student accounts.

2. Higher One, which is not a bank, partnered with Bancorp until May 2012 to provide checking account and debit card services to students. Higher One currently partners with Wright for these services.¹

¹ The use of the term “Defendants” means Higher One and its banking partner. Before May 2012, “Defendants” means Higher One and Bancorp. After May 2012, “Defendants” means Higher One and Wright.

3. In general, Plaintiffs' direct contact is with Higher One, which sent accounts documents, contracts, disclosures, and a debit card to Plaintiffs. Upon information and belief, it is pursuant to instructions and policies devised in cooperation with Higher One that Bancorp and Wright hold or held Plaintiffs' financial aid funds, issued debit cards, and assessed the bank fees described herein pursuant to instructions and policies devised in cooperation with Higher One.

4. Higher One has arrangements with over 500 colleges and universities around the country whereby a student's financial-aid refund—the money left over after the school deducts its tuition and fees, which students are to use for things like books and living expenses—is automatically deposited by Defendants into a Higher One bank account linked to a Higher One debit card. These financial aid refunds include scholarship, federal financial aid, and/or loan money (including Title IV, Higher Education Act ("HEA") program funds). Defendants are aware the deposited funds are comprised of financial aid refunds, as they receive the funds directly from colleges and universities.

5. Defendants thus default students into use of the Higher One account, and force students to affirmatively opt-out of the Higher One account if students would like to deposit their financial aid funds in another bank.

6. Higher One then uses three tactics to make sure that students do *not* opt-out of this default: first, it sends students unsolicited and "co-branded" debit cards and accompanying materials, which falsely imply that the Higher One account is endorsed or required by the student's college or university; second,

Higher One, in concert with Wright and Bancorp, intentionally delay access to financial aid funds for students who choose to use other banking providers; third, Higher One conceals the true costs of the Higher One accounts by making its deceptive and incomplete account disclosures difficult to access.

7. Students may only access their own financial aid funds immediately by not opting-out of the Higher One account that has been created for them. Because, almost by definition, financial aid recipients are dependent on their financial aid money to survive, Defendants coerce students to remain in the default option and use Higher One accounts in order to have immediate access to their funds.

8. These tactics are extraordinarily successful: Higher One has stated publicly that approximately 80% of students remain in the “default” option. Having secured a captive audience, at least one Defendant² then proceeds to assess and collect deceptive, improperly disclosed, and in many cases unavoidable bank fees on these accounts.

9. Once a student is locked in to a Higher One account, he or she is then assessed unconscionable and unusual bank fees. These fees are charged to students who can afford them the least.

² Without the benefit of discovery, Plaintiffs cannot specify which Defendant or Defendants actually perform the task of assessing and collecting the complained-of bank fees. Where the exact contours of the relationships between named Defendants is unknown to Plaintiffs, Plaintiffs use the terminology “at least one Defendant.”

10. A recent report by the U.S. Public Interest Research Group, “The Campus Debit Card Trap” (attached as Exhibit A), condemns Higher One’s activities:

- “Fees can be steep and frequent for students using the university-adopted cards, including a variety of per-swipe fees, inactivity fees, overdraft fees [and] ATM fees[.]”
- “Potentially aggressive marketing tactics can make students captive customers.”
- “Access to student financial aid funds placed on debit cards can be subject to limited availability of ‘convenient’ fee-free ATMs for student loan withdrawals despite U.S. Department of Education rules. Students end up paying fees to access their aid.”

11. Targeting students with excessive bank fees—and using scarce financial aid money (much of which is taxpayer money) to pay those fees—is unethical, immoral, and contrary to public policy, and makes it more difficult for students to meet legitimate education expenses. It violates the public policy expressed by various federal Department of Education (“DOE”) regulations, including 34 C.F.R. 668.164(c)(3)(iv), which states that regardless of how students receive their financial aid refunds, entities are prohibited from charging a fee for delivering those funds. It also violates the public policy expressed by the HEA, which limits the use of federal financial aid funds to educational expenses.

12. As discussed below, students cannot reasonably avoid certain Higher One fees.

13. Many students pay Defendants' unconscionable bank fees with borrowed money, often at 7 percent interest or higher. Other students receiving grant aid are low-income, with a high level of need.

14. In 2010 alone, Higher One took in at least \$66 million on so-called "convenience fees" charged to students. Upon information and belief, a large portion of those fees were taxpayer funds designated by the federal government for the strict purpose of meeting the educational needs of low- and middle-income students.

15. In sum, Defendants collectively delivered a one-two-three punch to Plaintiffs that violated their statutory and common law rights: (1) Defendants forced, or defaulted, Plaintiffs into a Higher One account without students' consent; (2) Defendants made misrepresentations and omissions, and foreclosed other banking options, in order to inhibit Plaintiffs from opting out of that default; and (3) Defendants charged Plaintiffs undisclosed, deceptive, and unconscionable bank fees which violated the purported contract between Plaintiffs and Higher One.

16. Had Defendants not automatically opened checking accounts on Plaintiffs' behalf, plied them with deceptively co-branded debit cards and associated documents, and failed to adequately disclose account costs, Plaintiffs could have and would have chosen to receive financial aid funds via their existing bank or another bank which offers similar checking services without the unconscionable fees discussed herein—many of which are rarely, if ever, charged by other banks.

JURISDICTION AND VENUE

17. This Court has subject matter jurisdiction over this class action pursuant to 28 U.S.C. § 1332, as amended by the Class Action Fairness Act of 2005, because the matter in controversy exceeds \$5 million, exclusive of interest and costs, and is a class action in which some members of the classes are citizens of states different than Defendants. See 28 U.S.C. § 1332(d)(2)(A). This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over Plaintiffs' state law claims for violations of the Connecticut Unfair Trade Practices Act ("CUTPA"), C.G.S. § 42-110a, *et seq.*, for rescission, and for unjust enrichment, conversion, and statutory theft.

18. Venue properly lies in this District pursuant to 28 U.S.C. § 1391, because Higher One maintains its headquarters in this District and because Defendants have imposed substantial bank fees on consumers by means of a scheme which emanates from this District. Moreover, the Terms and Conditions imposed by Higher One on accountholders contain a Connecticut choice-of-law provision.

THE PARTIES

19. Plaintiff Tarsha Crockett ("Plaintiff Crockett"), a current Higher One account holder, is a citizen of the state of Florida. Plaintiff Crockett has incurred PIN-Based Transaction Fees, non-Higher One ATM Transaction Fees, and Overdraft Fees. Plaintiff Crockett was charged these fees because Defendants opened a Higher One account without her consent, into which her financial aid refund was deposited; because, without requesting it, Plaintiff Crockett received

a co-branded, preloaded card from Higher One with “DEBIT” and the name of her university stamped boldly on the front; because she was forced to visit a Higher One website in order to access financial aid funds that were rightly hers; because she was provided indirect and delayed access to Account Agreements and Fee Schedules that were themselves filled with misrepresentations and ambiguities; because, due to the extremely limited number of Higher One ATMs provided, she was forced to use non-Higher One ATMs to access her financial aid money; and because she was not properly informed that she was required to use her Higher One card as a “credit” card at the point of sale, or because there was no option to select “credit” at the point of sale.

20. Plaintiff Rhonda Hannibal (“Plaintiff Hannibal”), a current Higher One account holder, is a citizen of the state of North Carolina. Plaintiff Hannibal has incurred PIN-Based Transaction Fees. Plaintiff Hannibal was charged these fees because Defendants opened a Higher One account without her consent, into which her financial aid refund was deposited; because, without requesting it, Plaintiff Hannibal received a co-branded, preloaded card from Higher One with “DEBIT” and the name of her university stamped boldly on the front; because she was forced to visit a Higher One website in order to access financial aid funds that were rightly hers; because she was provided indirect and delayed access to Account Agreements and Fee Schedules that were themselves filled with misrepresentations and ambiguities; and because she was not properly informed that she was required to use her Higher One card as a “credit” card at the point of sale, or because there was no option to select “credit” at the point of sale.

21. Plaintiff Brandi Crawford (“Plaintiff Crawford”), a current Higher One account holder, is a citizen of the state of California. Plaintiff Crawford has incurred PIN-Based Transaction Fees and non-Higher One ATM Transaction Fees. Plaintiff Crawford was charged these fees because Defendants opened a Higher One account without her consent, into which her financial aid refund was deposited; because, without requesting it, Plaintiff Crawford received a co-branded, preloaded card from Higher One with “DEBIT” and the name of her university stamped boldly on the front; because she was forced to visit a Higher One website in order to access financial aid funds that were rightly hers; because she was provided indirect and delayed access to Account Agreements and Fee Schedules that were themselves filled with misrepresentations and ambiguities; because, due to the extremely limited number of Higher One ATMs provided, she was forced to use non-Higher One ATMs to access her financial aid money; and because she was not properly informed that she was required to use her Higher One card as a “credit” card at the point of sale, or because there was no option to select “credit” at the point of sale.

22. Plaintiff Prince Kaywood (“Plaintiff P. Kaywood”), a current Higher One account holder, is a citizen of the state of Louisiana. Plaintiff P. Kaywood has incurred PIN-Based Transaction Fees and non-Higher One ATM Transaction Fees. Plaintiff P. Kaywood was charged these fees because Defendants opened a Higher One account without his consent, into which his financial aid refund was deposited; because, without requesting it, Plaintiff P. Kaywood received a co-branded, preloaded card from Higher One with “DEBIT” and the name of his

university stamped boldly on the front; because he was forced to visit a Higher One website in order to access financial aid funds that were rightly his; because he was provided indirect and delayed access to Account Agreements and Fee Schedules that were themselves filled with misrepresentations and ambiguities; because, due to the extremely limited number of Higher One ATMs provided, he was forced to use non-Higher One ATMs to access his financial aid money; and because he was not properly informed that he was required to use his Higher One card as a “credit” card at the point of sale, or because there was no option to select “credit” at the point of sale.

23. Plaintiff Gaynell Kaywood (“Plaintiff G. Kaywood”), a former Higher One account holder, is a citizen of the state of Louisiana. Plaintiff G. Kaywood has incurred PIN-Based Transaction Fees and non-Higher One ATM Transaction Fees. Plaintiff G. Kaywood was charged these fees because Defendants opened a Higher One account without her consent, into which her financial aid refund was deposited; because, without requesting it, Plaintiff G. Kaywood received a co-branded, preloaded card from Higher One with “DEBIT” and the name of her university stamped boldly on the front; because she was forced to visit a Higher One website in order to access financial aid funds that were rightly hers; because she was provided indirect and delayed access to Account Agreements and Fee Schedules that were themselves filled with misrepresentations and ambiguities; because, due to the extremely limited number of Higher One ATMs provided, she was forced to use non-Higher One ATMs to access her financial aid money; and because she was not properly informed that she was required to use her Higher

One card as a “credit” card at the point of sale, or because there was no option to select “credit” at the point of sale.

24. Plaintiff Kristine Krieg (“Plaintiff Krieg”), a current Higher One account holder, is a citizen of the state of Washington. Plaintiff Krieg has incurred both PIN-Based Transaction fees and non-Higher One ATM Transaction Fees. Plaintiff Krieg was charged these fees because Defendants opened a Higher One account without her consent, into which her financial aid refund was deposited; because, without requesting it, Plaintiff Krieg received a co-branded, preloaded card from Higher One with “DEBIT” and the name of her university stamped boldly on the front; because she was forced to visit a Higher One website in order to access financial aid funds that were rightly hers; because she was provided indirect and delayed access to Account Agreements and Fee Schedules that were themselves filled with misrepresentations and ambiguities; because, due to the extremely limited number of Higher One ATMs provided, she was forced to use non-Higher One ATMs to access her financial aid money; and because she was not properly informed that she was required to use her Higher One card as a “credit” card at the point of sale, or because there was no option to select “credit” at the point of sale.

25. Plaintiff Ashley Parker (“Plaintiff Parker”), a current Higher One account holder, is a citizen of the state of Mississippi. Plaintiff Parker has incurred both PIN-Based Transaction Fees and non-Higher One ATM Transaction Fees. Plaintiff Parker was charged these fees because Defendants opened a Higher One account without her consent, into which her financial aid refund was

deposited; because, without requesting it, Plaintiff Parker received a co-branded, preloaded card from Higher One with “DEBIT” and the name of her university stamped boldly on the front; because she was forced to visit a Higher One website in order to access financial aid funds that were rightly hers; because she was provided indirect and delayed access to Account Agreements and Fee Schedules that were themselves filled with misrepresentations and ambiguities; because, due to the extremely limited number of Higher One ATMs provided, she was forced to use non-Higher One ATMs to access her financial aid money; and because she was not properly informed that she was required to use her Higher One card as a “credit” card at the point of sale, or because there was no option to select “credit” at the point of sale.

26. Plaintiff John Brandon Kent (“Plaintiff J. Kent”), a former Higher One account holder, is a citizen of the state of Alabama. Plaintiff J. Kent has incurred both PIN-Based Transaction Fees and non-Higher One ATM Transaction Fees. Plaintiff J. Kent was charged these fees because Defendants opened a Higher One account without his consent, into which his financial aid refund was deposited; because, without requesting it, Plaintiff J. Kent received a co-branded, preloaded card from Higher One with “DEBIT” and the name of his university stamped boldly on the front; because he was forced to visit a Higher One website in order to access financial aid funds that were rightly his; because he was provided indirect and delayed access to Account Agreements and Fee Schedules that were themselves filled with misrepresentations and ambiguities; because, due to the extremely limited number of Higher One ATMs provided, he was forced

to use non-Higher One ATMs to access his financial aid money; and because he was not properly informed that he was required to use his Higher One card as a “credit” card at the point of sale, or because there was no option to select “credit” at the point of sale.

27. Plaintiff Brianne Elizabeth Kent (“Plaintiff B. Kent”), a former Higher One account holder, is a citizen of the state of Alabama. Plaintiff B. Kent has incurred PIN-Based Transaction Fees, non-Higher One ATM Transaction Fees, and Overdraft Fees. Plaintiff B. Kent was charged these fees because Defendants opened a Higher One account without her consent, into which her financial aid refund was deposited; because, without requesting it, Plaintiff B. Kent received a co-branded, preloaded card from Higher One with “DEBIT” and the name of her university stamped boldly on the front; because she was forced to visit a Higher One website in order to access financial aid funds that were rightly hers; because she was provided indirect and delayed access to Account Agreements and Fee Schedules that were themselves filled with misrepresentations and ambiguities; because, due to the extremely limited number of Higher One ATMs provided, she was forced to use non-Higher One ATMs to access her financial aid money; because she was not properly informed that she was required to use her Higher One card as a “credit” card at the point of sale, or because there was no option to select “credit” at the point of sale; and because Defendants unlawfully turned the Higher One card into a credit access device that incurred overdrafts, in violation of DOE regulations.

28. Plaintiff Jonathan Lanham (“Plaintiff Lanham”), a current Higher One account holder, is a citizen of the state of Kentucky. Plaintiff Lanham has incurred both PIN-Based Transaction Fees and non-Higher One ATM Transaction Fees. Plaintiff Lanham was charged these fees because Defendants opened a Higher One account without his consent, into which his financial aid refund was deposited; because, without requesting it, Plaintiff Lanham received a co-branded, preloaded card from Higher One with “DEBIT” and the name of his university stamped boldly on the front; because he was forced to visit a Higher One website in order to access financial aid funds that were rightly his; because he was provided indirect and delayed access to Account Agreements and Fee Schedules that were themselves filled with misrepresentations and ambiguities; because, due to the extremely limited number of Higher One ATMs provided, he was forced to use non-Higher One ATMs to access his financial aid money; and because he was not properly informed that he was required to use his Higher One card as a “credit” card at the point of sale, or because there was no option to select “credit” at the point of sale.

29. Plaintiff Larry Forman (“Plaintiff Forman”), a current Higher One account holder, is a citizen of the state of Kentucky. Plaintiff Forman has incurred both PIN-Based Transaction Fees and non-Higher One ATM Transaction Fees. Plaintiff Forman was charged these fees because Defendants opened a Higher One account without his consent, into which his financial aid refund was deposited; because, without requesting it, Plaintiff Forman received a co-branded, preloaded card from Higher One with “DEBIT” and the name of his

university stamped boldly on the front; because he was forced to visit a Higher One website in order to access financial aid funds that were rightly his; because he was provided indirect and delayed access to Account Agreements and Fee Schedules that were themselves filled with misrepresentations and ambiguities; because, due to the extremely limited number of Higher One ATMs provided, he was forced to use non-Higher One ATMs to access his financial aid money; and because he was not properly informed that he was required to use his Higher One card as a “credit” card at the point of sale, or because there was no option to select “credit” at the point of sale.

30. Plaintiff, Jeannette Price (“Plaintiff Price”), a former Higher One account holder, is a citizen of the state of Texas. Plaintiff Price has incurred PIN-Based Transaction Fees, non-Higher One ATM Transaction Fees, Overdraft Fees, and Abandoned Account Fees. Plaintiff Price was charged these fees because she was provided indirect and delayed access to Account Agreements and Fee Schedules that were themselves filled with misrepresentations and ambiguities; because, due to the extremely limited number of Higher One ATMs provided, she was forced to use non-Higher One ATMs to access her financial aid money; because she was not properly informed that she was required to use her Higher One card as a “credit” card at the point of sale, or because there was no option to select “credit” at the point of sale; because Defendants unlawfully turned the Higher One card into a credit access device that incurred overdrafts, in violation of DOE regulations; and because Higher One failed to adequately notify Plaintiff

Price that a balance remained in her account or that it would repeatedly charge her inactivity fees on that balance.

31. Defendant Higher One is, according to its website, “a leading company focused on helping college business offices manage operations and providing enhanced service to students. Through a full array of services from refunds, payments, electronic billing, payment plans and more, Higher One works closely with colleges and universities to ensure students receive Financial Aid refunds quickly, can pay tuition and bills online, make on-campus and community purchases and learn the basics of financial management.” Higher One is a corporation established under the laws of the state of Delaware, with its principal place of business in New Haven, Connecticut.

32. Prior to May, 2012, pursuant to an agreement with Higher One, Bancorp, which has over \$2 billion in assets, provided Higher One customers Federal Deposit Insurance Corporation (“FDIC”)-insured depository services for checking accounts. Bancorp is a corporation established under the laws of the state of Delaware, with its principal place of business in Wilmington, Delaware.

33. Beginning in May, 2012, pursuant to an agreement with Higher One, Wright, which has over \$1.3 billion in assets, provided Higher One customers FDIC-insured depository services for checking accounts. Wright maintains its headquarters in the state of Utah and is supervised by the FDIC.

CLASS ALLEGATIONS

34. Plaintiffs bring this action on behalf of themselves and all others similarly situated pursuant to Fed. R. Civ. P. 23. This action satisfies the

numerosity, commonality, typicality, adequacy, predominance and superiority requirements of Rule 23.

35. The proposed Classes are defined as:

All current and former Higher One account holders in the United States who, within the applicable statute of limitations preceding the filing of this action to the date of class certification, incurred a PIN-based Transaction Fee, a non-Higher One ATM Fee, or an Overdraft Fee (the “National Class”).

All current and former Higher One accountholders who are citizens of Texas, Washington, California, North Carolina, Louisiana, Florida, Mississippi, Alabama, and Kentucky for the purpose of asserting claims under their respective state consumer protection statutes (the “State Subclasses”) (see Second Claim for Relief, *infra*).

The National Class and the State Subclasses are collectively referred to as the “Classes.”

36. Plaintiffs reserve the right to modify or amend the definition of the proposed Classes before the Court determines whether certification is appropriate.

37. Excluded from the Classes are Defendants, their parents, subsidiaries, affiliates, officers and directors, any entity in which Defendants have a controlling interest, all customers who make a timely election to be excluded, governmental entities, and all judges assigned to hear any aspect of this litigation, as well as their immediate family members.

38. The members of the Classes are so numerous that joinder is impractical. The Classes consist of thousands of members, the identity of whom is within the knowledge of and can be ascertained only by resort to Defendants’ records.

39. The representative Plaintiffs' claims are typical of the claims of the Classes in that the representative Plaintiffs, like all Class members, were improperly defaulted into using a Higher One account and then improperly charged bank fees by Higher One. The representative Plaintiffs, like all Class members, have been damaged by Higher One's misconduct in that they have been forced to use a Higher One account to access financial aid funds, and have been assessed and/or will continue to be assessed unfair and unconscionable bank fees. Furthermore, the factual basis of Defendants' misconduct is common to all Class members, and represents a common thread of unfair and unconscionable conduct resulting in injury to all members of the Classes.

40. There are numerous questions of law and fact common to the Classes and those common questions predominate over any questions affecting only individual Class members.

41. Among the questions of law and fact common to the Classes are whether at least one Defendant:

a. Automatically opens Higher One accounts on behalf of students and deposit financial aid refunds into such accounts without consent;

b. Without students' consent, mails a pre-loaded, co-branded debit card and associated materials to students, falsely representing that Higher One is endorsed by, or is the preferred banking partner of, a student's college or university;

c. Deceptively encourages students not to opt-out of their Higher One accounts without adequately disclosing the true nature of those accounts, including unconscionable and unusual usage fees;

d. Intentionally makes it difficult for students to opt-out of the Higher One account by failing to provide an online “direct deposit” option and otherwise delaying access to financial aid monies for students who choose to use other banking providers;

e. Imposes contractual forms upon consumers only electronically, and only after a disbursement choice has been made, without providing consumers with the meaningful ability to review or approve the terms of those contracts prior to forcing a student to make a disbursement choice;

f. Deceives students about, and do not adequately disclose, PIN Transaction Fees by, among other things, labeling the Higher One access device a “debit card” even though a student must use it as a “credit” card to avoid the fee;

g. Does not provide means by which students can reasonably avoid PIN Transaction Fees;

h. Violates the contract by charging, in effect, two service fees for every non-Higher One withdrawal;

i. Does not provide means by which students can reasonably avoid non-Higher One ATM Transaction Fees;

j. Requires their customers to enter into standardized account agreements which include unconscionable provisions;

- k. Violates DOE regulations and guidance;**
- l. Converts money belonging to Plaintiffs and other members of the Classes through their policies and practices;**
- m. Is unjustly enriched through their policies and practices;**
- n. Violates the consumer protection acts of Connecticut and/or various states through their policies and practices; and**
- o. Violates the Electronic Funds Transfer Act and Regulation E.**

42. Other questions of law and fact common to the Classes include:

- a. The proper method or methods by which to measure damages, and**
- b. The declaratory relief to which the Classes are entitled.**

43. Plaintiffs' claims are typical of the claims of other class members, in that they arise out of Defendants' same wrongful policies and practices of and Higher One's account documents' same or substantially similar unconscionable provisions. Plaintiffs have suffered the harm alleged herein and have no interests antagonistic to the interests of any other Class member.

44. Plaintiffs are committed to the vigorous prosecution of this action and have retained competent counsel experienced in the prosecution of class actions and, in particular, class actions on behalf of consumers and against financial institutions. Accordingly, Plaintiffs are adequate representatives and will fairly and adequately protect the interests of the Classes.

45. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Since the amount of each individual

Class member's claim is small relative to the complexity of the litigation, and due to the financial resources of Defendants, no Class member could afford to seek legal redress individually for the claims alleged herein. Therefore, absent a class action, the Class members will continue to suffer losses and Defendants' misconduct will proceed without remedy.

46. Even if Class members themselves could afford such individual litigation, the court system could not. Given the complex legal and factual issues involved, individualized litigation would significantly increase the delay and expense to all parties and to the Court. Individualized litigation would also create the potential for inconsistent or contradictory rulings. By contrast, a class action presents far fewer management difficulties, allows claims to be heard which might otherwise go unheard because of the relative expense of bringing individual lawsuits, and provides the benefits of adjudication, economies of scale and comprehensive supervision by a single court.

COMMON FACTUAL ALLEGATIONS

A. Defendants Obtained Plaintiffs' Sensitive Personal Information Without Consent

47. Without Plaintiffs' authorization, Defendants acquired sensitive personal information from Plaintiffs' education and financial records.

48. Defendants used this information to open bank accounts and distribute pre-loaded debit cards to Plaintiffs.

B. Defendants Defaulted Plaintiffs Into Use of a Higher One Account

49. Without Plaintiffs' consent, Defendants acquired all financial aid refund money owed to Plaintiffs from Plaintiffs' colleges and universities. Upon

information and belief, Defendants then opened accounts for each Plaintiff—also without their consent.

50. Because Defendants automatically opened accounts into which their financial aid money was deposited, Plaintiffs were required to go through Higher One in order to receive any financial aid refund whatsoever.

51. By opening accounts for Plaintiffs, Defendant therefore created a “default” that Plaintiffs had to “opt-out” of if they were to use a different banking services provider to receive their financial aid money.

52. Higher One then used three tactics to make sure that Plaintiffs did not opt-out of this default: first, it sent Plaintiffs unsolicited and co-branded debit cards and associated materials; second, it (along with other Defendants) would intentionally delayed access to financial aid funds if Plaintiffs chose to use other banking providers to receive financial aid money; third, it concealed from Plaintiffs the true fees and costs associated with the accounts.

C. Higher One Sent Plaintiffs Deceptively “Co-Branded” Debit Cards and Associated Materials That Indicated Higher One Was the Required or Preferred Choice of Their Universities

53. Higher One aggressively markets its services directly to students via email and direct mail without students’ consent.

54. Higher One’s June 2010 IPO prospectus describes key components of its strategy to extract fees from students by aggressively marketing them, even prior to the time they set foot on campus:

Once we enter into a contract with a higher education institution, we begin focusing our marketing effort on the institution’s students...

We work closely with our higher education institutional clients to communicate the benefits of our products and services through school-branded communications and literature in an effort to increase both the number of new OneAccounts and usage of existing OneAccounts . . .

Typically, we will send information to parents and incoming students soon after their admission applications are accepted by the school and during student orientation. We generally contact returning students before the beginning of a new semester and place signs in strategic campus locations such as bookstores, student centers, dining halls, athletic facilities and cash dispensers to increase awareness of our products and services . . .

In an effort to strengthen our relationships with students, we often sponsor and support on-campus events and create a co-branded website with the higher education institutions . . .

55. Prior to the beginning of a semester, each Plaintiff received in the mail a Higher One debit card prominently emblazoned with the name and logo of Plaintiffs' respective colleges and universities.

56. Each Plaintiff believed these representations to indicate that his or her school endorsed or required Higher One's checking account as the best or only way to receive financial aid money.

57. The Higher One debit cards came complete with unique account information and Plaintiffs' sensitive information stored on the card. Accompanying the card, a notice told Plaintiffs that they were required to activate their card to be entitled to receive their financial aid benefits.

58. Upon information and belief, prior to the beginning of a term, each Plaintiff received an email from Higher One which contained text substantially similar to the following:

[Your college or university] has partnered with Higher One to provide a new method for receiving financial aid disbursements to all . . .

students. It is called the [name of college] Debit Card. If you have received your Higher One card and are expecting Financial Aid; please activate the card and choose your disbursement preference right away to avoid any delays to your disbursement.

59. In such emails, and by use of the term “partnered” among others, Higher One falsely represented to Plaintiffs that the Higher One account was endorsed or required by his or her school as the only or best way to receive their financial aid funds.

60. Each Plaintiff stayed in the Higher One “default” because, in part, each Plaintiff believed use of the Higher One account was the only or best way to receive financial aid funds disbursed by his or her school.

61. In fact, federal regulations prohibit an institution of higher education from requiring use of a particular banking account for financial aid funds, and Plaintiffs’ colleges and universities did not require or endorse use of the Higher One account.

62. Higher One does not adequately disclose that students may elect to receive their financial aid refund via methods other than a Higher One account.

63. Plaintiffs were deceived into believing their schools had endorsed the Higher One account as the only or best way to receive their financial aid funds. Each non-Higher One ATM Fee, PIN-Transaction Fee, and Overdraft Fee discussed below was incurred, at least in part, as a result of this initial deception.

D. Higher One Deceptively Discouraged Plaintiffs From Opting-Out of Their Higher One Accounts By Threatening Delayed Access to Financial Aid Money If They Used Options Other Than Higher One

64. Plaintiffs were next required to use a Higher One website in order to receive any financial aid refund whatsoever. The site was co-branded with

Plaintiffs' schools' logos and falsely represented that Higher One was the preferred or required financial aid disbursement and checking account provider.

65. Plaintiffs did not opt out of the default option because, in part, Defendants would have delayed access to their much-needed financial aid money if Plaintiffs had chosen other options. Upon information and belief, each Plaintiff received a substantially similar email from Higher One that touted the expediency of its refund, but did not adequately disclose the myriad fees the students would be subject to if they in fact used a Higher One account.

66. Further, Plaintiffs were each told that they would get their financial aid refunds "immediately" if they choose Higher One and that their financial aid disbursements would be delayed if they opted-out of the Higher One account default for their disbursement.

67. However, as discussed below, a refund would be "delayed" only because Defendants together designed their disbursement system to make other disbursement options more time-consuming.

68. In order to access their financial aid funds, Plaintiffs were forced to visit the Higher One website. Plaintiffs were required to use the 16-digit debit card number that they were sent in the mail to log in.

69. Plaintiffs were theoretically provided three options for a financial aid distribution, but Defendants ensured the choice was predestined. The first option was to remain in the Higher One default and receive money immediately. The second option was for a "direct deposit," which was not "direct" at all, but actually required a student to print out a paper form, fill it out, and mail it in to

Higher One. Upon information and belief, this option takes approximately one week for a student to receive funds. The third option is to request a paper check. Upon information and belief, this option takes approximately one month for a student to receive funds.

70. Disbursement options other than the default Higher One account were not presented equally.

71. Because, by definition, financial aid recipients are dependent on their financial aid money to survive, Defendants coerce students to remain in the default option and use Higher One accounts in order to have immediate access to their funds.

72. Plaintiffs each needed their financial aid money quickly. It was unconscionable, deceptive, and unfair for Defendant to hold Plaintiffs' own financial aid funds hostage for a period of time unless Plaintiffs used a Higher One account for disbursement.

E. Defendants Purposely Made It Difficult for Plaintiffs to Opt-Out of the Higher One Account by Foreclosing Other Banking Options

73. As discussed above, Higher One did not allow Plaintiffs to choose their electronic disbursement options without undue bias and pressure.

74. Defendants did not provide an electronic online option for Plaintiffs to deposit their financial aid refunds in another bank of their choosing. This is despite the fact that in similar electronic payment systems, companies routinely provide an online direct deposit option, and such technology is commonly and cheaply available. For example, the federal government offers electronic direct deposit options for receipt of Social Security benefits. Upon information and

belief, Defendants could have easily done so here, but intentionally did not provide that option in order to disincentivize students from choosing other banking options.

75. Had direct deposit been available as an online option (and thus not come with an artificial time delay), Plaintiffs could have and would have used their existing bank accounts, and accounts at different banks, to deposit their financial aid funds—accounts which would not have come with the unconscionable and unusual fees at least one Defendant charges, as discussed herein.

76. In other words, at least one Defendant intentionally makes it more difficult for students to deposit their financial aid refunds into accounts at other banks than to follow the default option of using the new bank account opened for them by Higher One.

77. These policies violate DOE regulations, including, *inter alia*, 34 C.F.R. §668.164(c)(3), which states:

An institution may establish a policy requiring its students to provide bank account information or open an account at a bank of their choosing as long as this policy does not delay the disbursement [of financial aid funds].

(emphasis added).

78. A student who complies by designating non-Higher One bank account information suffers a delay in receiving funds, in violation of the above-referenced regulation.

79. Defendants' tactics are extraordinarily successful. In practice, most students whose funds are initially deposited into Higher One Accounts end up

receiving their financial aid refund through Higher One. In 2009, for instance, 76 percent of the students at participating colleges ended up banking with Higher One, rather than choosing another bank, according to filings with the Securities and Exchange Commission.

80. In short, Higher One has leveraged its relationship with colleges and universities to make itself essentially the *de facto* or default choice for banking on these campuses.

81. It then uses this advantage to charge students unconscionable and unusual bank fees. Each of the fees incurred by Plaintiffs could not and would not have been charged if Plaintiffs had not been automatically defaulted into a Higher One account, then unconscionably pressured not to opt-out.

F. Higher One Provided Deceptive Account Disclosures To Plaintiffs and Did Not Adequately Disclose The Unconscionable and Unusual Fees Associated with the Accounts

82. The terms of Higher One's checking accounts are contained in standardized account holder agreements made available to Plaintiffs only in "click-through" form on Higher One's website. A representative copy of Higher One's "Account Terms and Conditions and Related Disclosures" (the "Account Agreement") is attached as Exhibit B. The Account Agreement was never provided to Plaintiffs in printed form, and, upon information and belief, was only provided after Plaintiffs had been forced to choose the "immediate refund" default option of using the Higher One account.

83. Nor did Higher One make fee information easily accessible to Plaintiffs. The fee schedule, attached as Exhibit C, was a separate document and

required Plaintiffs to click a separate link from the Account Agreement and read through a page deceptively filled with all of the free services offered by Higher One—before finally getting to the fee-based services page. Those fee-based services were not visible on the first page of the screen, and could only be viewed if the student scrolled down to another page on the website.

84. The contract formation process imposed by Higher One upon Plaintiffs was thus procedurally unconscionable because it concealed the true nature of the contract and of the accounts. The unconscionable contract formation process was another attempt by Higher One to ensure Plaintiffs did not “opt-out” of their Higher One accounts.

85. Moreover, such terms were drafted and imposed by Higher One, which is the party of vastly superior bargaining strength, on Plaintiffs. These agreements thus constitute agreements of adhesion.

86. Higher One did not adequately disclose the unconscionable and unusual fees it charges (or Plaintiffs’ inability to reasonably avoid these fees, as discussed below) prior to requiring Plaintiffs to agree to use a Higher One account on the Higher One website.

G. Higher One Breached the Contract When It Charged Two ATM Fees For Each non-Higher One ATM Withdrawal

87. Plaintiffs could access the funds in their Higher One accounts by making ATM withdrawals.

88. At least one Defendant charges a \$2.50 “non-Higher One ATM Transaction Fee” for all ATM withdrawals made at ATMs not owned by Higher One. Higher One charges this fee in addition to ATM fees charged by the owners

of the ATMs. Accordingly, Plaintiffs (with the exception of Plaintiff Hannibal) paid \$4.50 or more for each ATM withdrawal they made from a non-Higher One ATM.

89. This double-charging is prohibited by the terms of Plaintiffs' contract with Higher One.

90. Under the heading of "ATM Operator/Network Fees," the Account Agreement states: "When you use an ATM not owned by us, you may be charged a fee by the ATM operator or any network used (and you may be charged a fee for a balance inquiry even if you do not complete a fund transfer)."

91. Nowhere in the Account Agreement is there any suggestion that Higher One will charge its own fee for the use of a non-Higher One ATM.

92. In a separate document, entitled "Fee Schedules," there is a row entitled, "Non-Higher One ATM Transactions (Includes all withdrawals, Inquiries, and declines)." Nowhere on the Fee Schedules does Higher One make it clear that the ATM fee is being charged by Higher One. Indeed, read together with the Account Agreement, the only reasonable interpretation of the provision would make it simply a notation of the amount of the fee charged by the non-Higher One bank, which is the only fee referenced in the Account Agreement.

93. If Higher One wanted to require its customers to pay two fees for each use of a non-Higher One ATM machine, it was at least required to explicitly disclose that in the Account Agreement and the Fee Schedule. Instead, in both places, Higher One states that the consumer will have to pay only one fee for such a transaction.

94. In the Fee Schedule, Higher One represented that only one fee would be charged for each ATM transaction. In a different document (the Account Agreement), Higher One stated that the ATM owner may assess a fee for use of a non-Higher One ATM machine. At the very least, these two statements are ambiguous or conflicting, and the most reasonable interpretation is that the two documents are describing the same (single) ATM fee. Nowhere in either of these documents did Higher One ever inform Plaintiffs that they would be systematically charged two fees for the same ATM transaction.

95. Therefore, Higher One breaches the Account Agreement when it allows the total assessment of at least \$4.50 in fees to be charged for each non-Higher One ATM withdrawal.

96. Charging the equivalent of non-Higher One ATM Transaction Fees is not industry practice. Upon information and belief, the vast majority of U.S. banks do not charge a similar “out of network” fee.

H. By Providing An Extremely Limited Number of “In-Network” ATMs, Which Themselves Provide Only Limited Hours and Days of Operation, Higher One Made it Impossible for Plaintiffs to Avoid “Non-Higher One ATM Transaction Fees”

97. As discussed above, allowing fees of upwards of \$4.50 for an ATM withdrawal violates Higher One’s contract with Plaintiffs. Such charges are additionally oppressive, unscrupulous and substantially injurious to consumers because “in-network” Higher One ATMs are exceedingly rare, and are not available to students at all hours, on weekends, or during school vacations or holidays. Therefore, Plaintiffs could not reasonably avoid such fees, and they

were forced to use “out of network” ATM machines during these periods and when out of range of the very few in-network ATMs.

98. Upon information and belief, Higher One intentionally limits the number of “in-network” ATMs it provides in order to increase its ATM fee revenue. Indeed, Higher One disburses financial aid to students at over 520 colleges across the county, but has only about 600 total ATMs in service, according to U.S. PIRG.

99. Upon information and belief, Higher One intentionally limits the access hours of its “in-network” ATMs in order to increase its ATM fee revenue. U.S. PIRG reports that Higher One encourages ATMs to be placed inside limited-access buildings by charging higher fees to schools for ATMs placed outside of such buildings, where they would be accessible to students at all hours.

100. Moreover, frequent reports indicate that the scarce Higher One ATMs often run out of cash during peak usage periods—for example, at the beginning of semesters. U.S. PIRG reports there are commonly long lines of students trying to access financial aid funds at Higher One ATMs on campus, and that ATMs run out of money—forcing students to use out-of-network ATMs.

101. Each Plaintiff (with the exception of Plaintiff Hannibal) was forced to use a non-Higher One ATM in order to access his or her financial aid funds because it was difficult or impossible for Plaintiffs to access the Higher One ATM(s) on their respective campuses at the time and place they needed to withdraw their financial aid funds.

102. The failure of Higher One to provide adequate fee-free ATM access to Plaintiffs violates the public policy of the U.S., including 34 C.F.R. 668.164 (c) (3)(v), which provides that an institution must ensure that students have convenient access to ATMs or a branch office of the bank in which the account was opened.

103. Higher One concealed the fact of this extremely limited access to Higher One ATMs from Plaintiffs at the time they were forced to choose whether or not to “opt-out” of a Higher One account. This concealment is another, independent, tactic Higher One used to encourage Plaintiffs not to opt-out of the Higher One account disbursement.

104. Indeed, in an apparent attempt to remedy this concealment, Higher One has recently updated its Account Agreement to say:

Our ATMs are not accessible on your school's campus 24 hours a day, 7 days a week, so you will need to plan accordingly by contacting your school to determine the accessibility of our ATM(s) on your campus.

If our ATM(s) on your campus are not functioning properly due to any maintenance or repair related issues or be out of cash at any time and you use a non-Higher One ATM we will refund you up to \$5.00 per day on any non-Higher One ATM fee(s) and surcharge(s) you incur. This refund only applies to campuses where our ATM(s) has already been installed. You will need to contact us in writing via EasyHelp, website or by mail to request this credit.

105. Plaintiffs did not have the benefit of such disclosures, nor were they provided the offer of fee refunds.

106. That Higher One now offers a \$5 refund for certain out-of-network ATM withdrawals is evidence that Higher One has control over, or takes

responsibility for, out-of-network ATM fees—whether those fees are assessed by Higher One or by other banks.

107. Defendants' ATM practices violate DOE guidance. In Dear Colleague Letter GEN-12-08, the DOE states:

Under 34 C.F.R. 164(c)(3)(ii), the institution must inform the student *before the account associated with the card is opened* of the terms and conditions of the card or other instrument, *including any fees and other costs associated with the account*. This information should include whether all or some of the fees incurred per month by the student will be refunded back to the student's account.

Institutions also should mention whether cards issued through its contracted financial institution's ATM are part of a surcharge-free network, indicate the name of the network, and indicate the approximate number of available ATM's in that network both nationally and locally. Institutions should also disclose how many surcharge-free ATM's are on their campus, their location, the hours that they are accessible to patrons, and, if available, a hyperlink to an ATM locator for their affiliated networks

(emphasis added).

108. As discussed above, Higher One does not comply with this guidance and does not properly disclose its extremely limited number of "fee-free" ATMs or the fact that the small number of ATMs makes it very likely students will incur additional out-of-network fees.

109. Had Higher One not forced students to affirmatively opt-out of Higher One accounts, bombarded students with a deceptively co-branded debit card and associated materials, and intentionally created barriers to other banking options, students could easily have chosen a bank which offered a much larger network of free ATMs, allowing students to avoid this unconscionable and unusual non-Higher One ATM Fee.

110. Upon information and belief, Defendants jointly developed the policies and instructions that caused Wright and Bancorp to unlawfully debit Plaintiffs' accounts for the ATM fee amounts.

I. By Labeling Its Access Device a "Debit Card," Higher One Deceived Plaintiffs Into Incurring "PIN-Based Transaction Fees"

111. A Higher One debit card can be used to make a purchase in two ways: (1) an Automated Clearing House ("ACH") or "debit" transaction, in which a customer enters his/her PIN number at the point of sale; or (2) a "signature" or "credit" transaction, in which the debit card is treated like a credit card and the customer usually is required to sign a receipt. A user selects the option of "debit" to use the card in an ACH transaction, or selects the term "credit" to use the card in an "offline signature" transaction.

112. The Higher One debit cards issued to Plaintiffs after Higher One accounts were opened on their behalf were boldly stamped with the word "debit" on the front of the card and in two other places on the card.

113. Further, the Account Agreement specifically refers to all debit card transactions as "*Debit* MasterCard® Card Point-of-Sale ("POS") Transactions" (emphasis added).

114. In addition, in "Orientation" videos Higher One makes available online, Higher One affirmatively states that "it's a debit card, NOT a credit card."

115. Each time Plaintiffs swiped the card as a "debit" and entered their PIN, they were charged a 50-cent PIN-Based Transaction Fee by Higher One. The only way to avoid that 50-cent fee on every purchase is to press "credit" at a sales terminal and sign the receipt.

116. Higher One did not adequately disclose this fact to Plaintiffs, and misled Plaintiffs by placing the term “debit” on the card and by referring to the “debit” MasterCard in its contract documents, when, in fact, Plaintiffs had to select the “credit” option in order to avoid the fee.

117. In other words, Higher One deceptively told Plaintiffs on the face of the card that the card was not a credit card. Nonetheless, Plaintiffs had to use it as a credit card in order to avoid being charged the fee.

118. Further, at some merchants, students do not even have the choice of selecting the “credit” option.

119. Other merchants make it difficult to find the “credit” option at terminals. For example, customers swiping a debit card at Wal-Mart are immediately presented with the PIN screen; to use the “credit” option, a student must press “cancel” to exit the PIN screen, then press “credit” on the next screen. Higher One does not disclose to students how to select the “credit” option in this circumstance.

120. At other merchants, students cannot select the “credit” option unless their purchase is above a minimum amount.

121. Each Plaintiff incurred PIN-based Transaction Fees because they were not aware they had to use the Higher One card as a “credit” card at the point of sale, or because there was no option to select “credit” at the merchant, or for both reasons. Plaintiffs could not reasonably avoid the assessment of the PIN-Based Transaction Fees.

122. That Higher One's disclosures are not effective and that PIN transactions are in many cases unavoidable is evidenced by the fact that, according to Higher One, more than 50% of all its student account holders incur at least one PIN-based fee.

123. Charging PIN-Based Transaction Fees is not industry practice. Upon information and belief, the vast majority of U.S. banks do not charge such a fee.

124. Had Higher One not forced students to affirmatively opt-out of Higher One accounts, sent students deceptive co-branded debit cards and associated materials, and intentionally made other banking options unpalatable, Plaintiffs could easily have chosen a bank which offered similar services but did not charge, for example, this unconscionable and unusual PIN-Based Transaction Fee.

J. Defendants Unlawfully Charged Overdraft Fees on Accounts Used For Financial Aid Funds and Violated the Covenant of Good Faith and Fair Dealing in Authorizing Overdraft Transactions

125. Plaintiffs Price, Crockett, and B. Kent were charged overdraft fees by at least one Defendant.

126. DOE regulations state that if a bank account is opened for a student to receive a financial aid disbursement, an entity cannot "subsequently convert the account, card, or device to a credit card or credit instrument." 34 C.F.R. § 668.164(c)(3)(vii). Because Defendants "default" students into a Higher One account which allows a student to overdraw that account and incur Overdraft Fees, Higher One debit cards are a "credit instrument," in violation of the public policy of the United States.

127. Overdraft fees are credit. For example, the Truth in Lending Act defines “credit” as “the right granted by a creditor to a debtor to defer payment of a debt or to incur debt and defer its payment.” 15 U.S.C. § 1602(e). Joint guidance by several federal banking regulators acknowledged that “[w]hen overdrafts are paid, credit is extended” and “[o]verdraft balances should be reported on regulatory reports as loans.” 70 Fed. Reg. 9127, 9129 (Feb. 24, 2005).

128. The assessment of \$29 Overdraft Fees on Plaintiffs also violates the implied covenant of good faith and fair dealing. According to the Account Agreement, Higher One “reserve[s] the right, with or without notice to you, to either pay or return any item presented for payment against insufficient or uncollected funds.” Higher One also states that “[i]f we choose to honor any debit item that overdraws the Account we do so at our discretion and will not be obligated to do so thereafter.”

129. Therefore, Higher One reserved for itself the discretion as to whether or not to authorize overdraft transactions. It had a duty to exercise that discretion fairly and refuse to authorize transactions it knew or should have known to be drawn on insufficient funds or drawn on financial aid funds.

130. Instead, upon information and belief, at least one Defendant systematically and in every instance approved and debited transactions which they knew would result in Overdraft Fees and which they knew would turn Plaintiffs’ Higher One debit cards into credit access devices, in violation of federal regulations.

K. Higher One's Practices and Fees Are Outliers in the Financial Aid Disbursement Industry

131. As discussed above, non-Higher One ATM Fees and PIN-Based Transaction Fees are unusual and are not commonly found in other checking accounts available in the marketplace. These fees are also unusual with respect to Higher One's peer companies in the field of student financial aid disbursement, such as Heartland Payment Systems ("Heartland"), Blackboard, US Bank, and PNC Bank. In many cases, Higher One's peer companies also refrain from using Higher One-like aggressive efforts to default students into accounts and to pressure students not to opt-out of Higher One accounts.

132. For example, Blackboard provides financial aid disbursement to at least 25 colleges and universities across the country, covering 120,000 students. Upon information and belief, Blackboard does not "default" students into use of an account or require use of the account for financial aid disbursement. For example, at Salt Lake Community College, students must proactively request to be signed up for a Blackboard account, and must fill out an authorization form prior to any disbursement of funds into the Blackboard account.

133. Further, once a student does request to be enrolled in a Blackboard account, Blackboard charges students no overdraft fees and no PIN-based transaction fees. Further, students using Blackboard accounts have fee-free access to ATM withdrawals at over 50,000 ATMs—compared to the mere 600 fee-free ATMs provided by Higher One.

134. Another company, Heartland, provides financial aid disbursement to at least 23 colleges and universities across the country, covering 110,000

students. Upon information and belief, Heartland defaults students into its account, but provides an electronic direct deposit option of financial aid monies into a student's existing checking/savings account—providing a somewhat greater opportunity for cash-strapped students to opt-out of the “default” account without a major delay in receipt of their financial aid money. As discussed above, Higher One did not offer Plaintiffs the possibility of electronic direct deposit into an existing account.

135. Further, upon information and belief, Heartland provides two fee-free ATM withdrawals at any ATM in the country each time a debit card is “loaded” with financial aid funds—something Higher One did not provide to Plaintiffs. This is in addition to the use of over 250,000 ATMs nationwide for a total fee of \$1.50 per withdrawal, compared to the \$4.50 per withdrawal or more that Higher One accountholders are charged for out-of-network ATM use. Further, unlike Higher One, Heartland charges no PIN-based transaction fees.

136. U.S. Bank provides financial aid disbursement to at least 51 colleges and universities across the country, covering some 1.7 million students. Upon information and belief, students are not defaulted into a US Bank account. Instead, they must affirmatively request that their financial aid funds be deposited into a US Bank account. For example, at Oakland Community College, students continue to receive direct financial aid deposits into their preexisting checking accounts, unless they affirmatively request that it be put on the US Bank “RaiderCard.” Even then, a student cannot be provided a RaiderCard unless he or she affirmatively requests one and provides proper identification.

137. Students who choose to receive financial aid disbursement via a US Bank account are able to access tens of thousands of fee-free ATMs nationwide. In addition, US Bank charges no PIN-based transaction fees.

138. PNC Bank provides checking account services to 23 colleges and universities, covering approximately 250,000 students. Upon information and belief, PNC does not automatically load financial aid monies onto student debit cards. For example, At Penn State, the university has its own “Rapid Refund” system for quick access to financial aid monies—with no strings attached.

L. Defendants Violate Federal Public Policy Promulgated in the Higher Education Act, DOE Regulations, EFTA and Regulation E

139. As discussed above, Defendants charge students for access to their financial aid funds, in violation of DOE regulations, including 34 C.F.R. 664.164(c)(3)(iv), which states that, regardless of how students receive their financial aid funds, an entity is prohibited from charging a fee for delivering those funds.

140. The public policy of the United States makes clear that students are to have a clear and fair choice on how to receive their financial aid funds.

141. DOE rules mandate that students must have the choice of how to receive their financial aid funds. If an educational institution opens a bank or prepaid card account on behalf of a student or parent, it must, among other requirements, “obtain in writing affirmative consent from the student or parent to open that account.” 34 C.F.R. § 668.14(c)(3)(i).

142. Defendants violate this regulation and act contrary to the public policy of the United States because they do not obtain consent from students

prior to “defaulting” a student into a Higher One account they have opened. A college or university sends funds to at least one Defendant prior to any consent by student. Further, Higher One sends a pre-printed, unique debit card to students with account information and sensitive personal information already stored on it.

143. Moreover, DOE guidance requires that all information required for an authorization “must be conspicuous,” Federal Student Aid Handbook (September 2011), Vol. 4 Ch. 1, at 4-7, and must be provided before an account is opened. 34 CFR 668.164(c)(3).

144. Higher One violates DOE guidance set forth in Dear Colleague Letter GEN-12-08 and in 34 C.F.R. 668.25, which state that a student must be informed “before the account associated with the card is opened of the terms and conditions of the card or other instrument, including any fees and other costs associated with the account” and should also “disclose how many surcharge-free ATM’s are on their campus, their location, the hours that they are accessible to patrons, and, if available, a hyperlink to an ATM locator for their affiliated networks” (emphasis added). As discussed above, Higher One did not adequately inform Plaintiffs of the terms, conditions, and fees associated with the Higher One account, nor did Higher One inform Plaintiffs of the extremely limited number of in-network ATMs available for use.

145. Further, public policy clearly contemplates the use of federal financial aid funds only for authorized educational purposes. Defendants are in the business of distributing financial aid funds, yet they ignore this policy.

146. Higher One does not make account terms and conditions “conspicuous,” Federal Student Aid Handbook (September 2011), Vol. 4 Ch. 1, at 4-7, and does not provide those terms and conditions before an account is opened. 34 CFR 668.164(c)(3). As discussed above, Higher One does not make the Account Agreement or fee schedule reasonably available (and indeed, never provides them in written form), nor does it inform students that its “in-network” ATM system is extremely limited.

147. The DOE has made clear that “a school may not require or coerce the student or parent to provide an authorization . . .” 34 C.F.R. § 668.165 (emphasis added).

148. By intentionally delaying access to financial aid funds for students who opt-out of the Higher One account, Defendants coerce students to provide an “authorization” to use the Higher One account, in violation of the public policy of the United States. HEA promulgates the public policy of the United States with respect to federal financial aid. Federal student loans and grants are to be used only to cover education-related expenses, including tuition and fees, room and board, books, school supplies, technology needs, and transportation. Loans and grants can also help pay for necessary dependent care.

149. According to 34 C.F.R. 668.25, third party servicers like Defendants must “[c]omply with all statutory provisions of or applicable to Title IV of the HEA...including the requirement to use any funds that the servicer administers under any Title IV, HEA program and any interest or other earnings *thereon solely*

for the purposes specified in and in accordance with that program” (emphasis added).

150. Therefore, the regulation places a special burden on third party servicers to comply with rules regarding treatment of federal financial aid funds, which are *not* to be used for bank fees. Yet Defendants ignore these special requirements and knowingly take students’ federal financial aid monies to pay bank fees.

151. In addition, the Electronic Funds Transfer Act (“EFTA”), and its implementing Regulation E, provide: “No person may...require a consumer to establish an account for receipt of electronic fund transfers with a particular financial institution as a condition of employment or receipt of a government benefit” 15 U.S.C. § 1693k(2); see *also* Regulation E, 12 C.F.R. § 205.10(e). Federal financial aid funds are a “government benefit” that Defendants require students to use Higher One services to access, and Defendants therefore violate the EFTA.

152. As discussed above, Defendants open Higher One accounts for all students—whether or not any student ultimately agrees to use Higher One.

153. Moreover, a student is “defaulted” into the Higher One account, and must use the deceptive Higher One website in order to access his or her financial aid funds.

154. Defendants violate the EFTA even though they purport to provide an opt-out from the Higher One default account. *Pinkett v. First Citizens Bank*, 2010

WL 1910520 (N.D. Ill. May 10, 2010); *O'Donovan v. CashCall, Inc.*, 2009 WL 1833990 (N.D. Cal. June 24, 2009).

155. Therefore, Defendants condition students' access to federal financial aid funds on use of a Higher One account, in violation of the public policy of the United States.

156. Additionally, the E-Sign Act, 15 USC 7001, *et seq.*, permits electronic writings to substitute for legally required paper writings only if certain procedures are followed. The Act is triggered "if a statute, regulation, or other rule of law requires that information relating to a transaction or transactions in or affecting interstate or foreign commerce be provided or made available to a consumer in writing . . ." 15 USC 7001(c)(1). If such a "writing" is required, the consumer is not required to accept electronic records, 15 USC 7001(b)(2), and electronic records may be substituted only if the consumer consents and demonstrates the ability to access the electronic records.

157. The EFTA requires periodic written statements for bank accounts. However, Higher One requires all students to receive all statements electronically. Higher One *requires* students to sign an E-Sign Disclosure and Consent form. It permits students to opt out, but only if students contact Higher One by phone (and only after viewing all of the consent documents online). According to Higher One's Account Agreement, students who opt-out of electronic disclosures then have "access and use of the Higher One website and Account . . . terminated."

158. Therefore, Higher One provides no reasonable opportunity for students to receive bank statements in a written form.

M. Defendants' Unconscionable Policies and Provisions

159. Defendants' policies and practices are or were unconscionable in the following respects, among others:

a. Defendants automatically open Higher One accounts on behalf of students and deposit financial aid money into such accounts without consent;

b. Higher One aggressively markets directly to students, even before matriculation, and without students' consent;

c. Higher One sends a co-branded debit card to students, representing that Higher One is endorsed by, or is the preferred banking "partner" of, a student's college or university, or that use of the Higher One account is necessary to receive financial aid monies;

d. Higher One provides students with a Higher One "debit" card, but requires that the card be used as a "credit" card to avoid PIN-Based Transaction Fees;

e. Higher One pressures students not to opt-out of their Higher One accounts without adequately disclosing the true nature of those accounts, including unconscionable and unusual usage fees;

f. Defendants intentionally make it difficult for students to opt-out of the Higher One account by failing to provide an electronic "direct deposit" option and by delaying access to financial aid monies for students who choose to use other banking providers;

g. Higher One imposes contractual forms upon students only electronically, and only after a disbursement choice has been made, without providing students with the meaningful ability to review or approve the terms of those contracts prior to forcing students to make a disbursement choice;

h. Defendants do not provide means by which students can reasonably avoid PIN Transaction Fees;

i. Higher One does not adequately disclose non-Higher One ATM Transaction Fees;

j. Defendants do not provide means by which students can reasonably avoid non-Higher One ATM Transaction Fees;

k. Defendants charge students, in effect, two service fees for every non-Higher One ATM withdrawal;

l. Higher One requires its customers to enter into standardized account agreements which include unconscionable provisions;

m. Defendants do not alert their customers that a debit card transaction or ATM transaction will trigger a PIN-Based Transaction Fee and non-Higher One ATM Fee, and do not provide the customer the opportunity to cancel that transaction, before assessing such fees;

n. Defendants turn accounts into which financial aid disbursement is made into accounts with credit features by approving overdraft transactions and charging Overdraft Fees;

o. Defendants force students to use financial aid loan money to pay bank fees, which both exponentially increases the cost of such bank fees over time, and is in violation of federal public policy; and

p. Defendants violate DOE regulations and guidance.

N. Higher One's Practices Harmed Plaintiffs

160. Higher One's wrongful policies and practices described above harmed Plaintiffs and members of the Classes. The following allegations regarding the named Plaintiffs are made for purposes of illustrating the harm and damage sustained by Plaintiffs and members of the Classes as a result of Higher One's wrongful policies and practices.

161. Plaintiff Price

a. Plaintiff Price is a former checking account customer of Higher One.

b. In connection with her account, Defendants issued a debit card to Plaintiff Price.

c. At least one Defendant wrongfully charged Plaintiff Price fees on numerous occasions.

d. For example, Plaintiff Price was charged PIN-Based Transaction Fees on June 26, 2012.

e. For example, Plaintiff Price was charged non-Higher One ATM Transaction Fees, in addition to fees imposed by the ATM owner, twice on June 26, 2012 (a total of \$5.50 in fees for each withdrawal).

f. For example, Plaintiff Price was charged Overdraft Fees on July 17, 2009.

162. Plaintiff Hannibal

a. Plaintiff Hannibal is a current checking account customer of Higher One.

b. In connection with her account, Defendants issued a debit card to Plaintiff Hannibal.

c. At least one Defendant wrongfully charged Plaintiff Hannibal fees on numerous occasions.

d. For example, Plaintiff Hannibal was charged PIN-Based Transaction Fees on June 15, 2012; June 29, 2012; July 2, 2012; July 6, 2012; and July 9, 2012.

163. Plaintiff Crawford

a. Plaintiff Crawford is a current checking account customer of Higher One.

b. In connection with her account, Defendants issued a debit card to Plaintiff Crawford.

c. At least one Defendant wrongfully charged Plaintiff Crawford fees on numerous occasions.

d. For example, Plaintiff Crawford was charged PIN-Based Transaction Fees on June 10, 2011; June 13, 2011; June 17, 2011; August 15, 2011; October 7, 2011; October 31, 2011; November 22, 2011; January 17, 2012; and January 18, 2012.

e. For example, Plaintiff Crawford was charged non-Higher One ATM Transaction Fees, in addition to fees imposed by the ATM owner, on October 31, 2011 (a total of \$5.50 in fees for each withdrawal).

164. Plaintiff Crockett

a. Plaintiff Crockett is a current checking account customer of Higher One.

b. In connection with her account, Defendants issued a debit card to Plaintiff Crockett.

c. At least one Defendant wrongfully charged Plaintiff Crockett fees on numerous occasions.

d. For example, Plaintiff Crockett was charged 22 PIN-Based Transaction Fees on February 2, 2012, February 3, 2012 and February 6, 2012. Plaintiff Crockett was also charged additional PIN-Based Transaction Fees on May 30, 2012 and June 29, 2012.

e. For example, Plaintiff Crockett was charged non-Higher One ATM Transaction Fees, in addition to fees imposed by the ATM owner, on February 10, 2012; February 13, 2012; and February 16, 2012 (a total of \$5.50 in fees for each withdrawal).

165. Plaintiff P. Kaywood

a. Plaintiff P. Kaywood is a current checking account customer of Higher One.

b. In connection with his account, Defendants issued a debit card to Plaintiff P. Kaywood.

c. At least one Defendant wrongfully charged Plaintiff P. Kaywood fees on numerous occasions, including non-Higher One ATM Transaction Fees and PIN-Based Transaction Fees.

166. Plaintiff G. Kaywood

a. Plaintiff G. Kaywood is a former checking account customer of Higher One.

b. In connection with her account, Defendants issued a debit card to Plaintiff G. Kaywood.

c. At least one Defendant wrongfully charged Plaintiff G. Kaywood fees on numerous occasions, including non-Higher One ATM Transaction Fees and PIN-Based Transaction Fees.

167. Plaintiff Krieg

a. Plaintiff Krieg is a current checking account customer of Higher One.

b. In connection with her account, Defendants issues a debit card to Plaintiff Krieg.

c. At least one Defendant wrongfully charged Plaintiff Krieg fees on numerous occasions.

d. For example, Plaintiff Crawford was charged PIN-Based Transaction Fees on July 9, 2012; July 12, 2012; and July 16, 2012.

e. For example, Plaintiff Krieg was charged non-Higher One ATM Transaction Fees, in addition to fees imposed by the ATM owner, on July 6, 2012 (a total of \$4.50 in fees for each withdrawal).

168. Plaintiff Parker

a. Plaintiff Parker is a current checking account customer of Higher One.

b. In connection with her account, Defendants issued a debit card to Plaintiff Parker.

c. At least one Defendant wrongfully charged Plaintiff Parker fees on numerous occasions, including non-Higher One ATM Transaction Fees and PIN-Based Transaction Fees.

169. Plaintiff J. Kent

a. Plaintiff J. Kent is a former checking account customer of Higher One.

b. In connection with his account, Defendants issued a debit card to Plaintiff J. Kent.

c. At least one Defendant wrongfully charged Plaintiff J. Kent fees on numerous occasions, including non-Higher One ATM Transaction Fees and PIN-Based Transaction Fees.

170. Plaintiff B. Kent

a. Plaintiff B. Kent is a former checking account customer of Higher One.

b. In connection with her account, Defendants issued a debit card to Plaintiff B. Kent.

c. At least one Defendant wrongfully charged Plaintiff B. Kent fees on numerous occasions, including non-Higher One ATM Transaction Fees, PIN-Based Transaction Fees, and Overdraft Fees.

171. Plaintiff Lanham

a. Plaintiff Lanham is a current checking account customer of Higher One.

b. In connection with his account, Defendants issued a debit card to Plaintiff Lanham.

c. At least one Defendant wrongfully charged Plaintiff Lanham fees on numerous occasions, including non-Higher One ATM Transaction Fees and PIN-Based Transaction Fees.

172. Plaintiff Forman

a. Plaintiff Forman is a current checking account customer of Higher One.

b. In connection with his account, Defendants issued a debit card to Plaintiff Forman.

c. At least one Defendant wrongfully charged Plaintiff Forman fees on numerous occasions.

d. For example, Plaintiff Forman was charged PIN-Based Transaction Fees on August 30, 2012.

e. Based on information and belief, the fees assessed Plaintiffs are representative of millions of dollars of fees that Defendants wrongfully assessed and deducted from their customers' accounts.

O. The Damages Sustained by Plaintiffs and the Classes

173. As a consequence of Defendants' policies and practices, Plaintiffs and the Classes have been wrongfully forced to use Higher One accounts and pay unconscionable, unusual, and deceptive bank fees, many of which violate Higher One's own contract. Defendants have improperly deprived Plaintiffs and the Classes of significant funds, causing ascertainable monetary losses and damages.

174. As a consequence of Defendants' improper fees, Higher One has wrongfully deprived Plaintiffs and the Classes of funds to which it had no legitimate claim.

175. Because many of these improperly charged fees were in many cases paid with borrowed money, some students are effectively paying interest on these fees.

176. All conditions precedent to the relief sought herein have either occurred or have been performed or waived.

FIRST CLAIM FOR RELIEF
Violations of CUTPA
(On Behalf of the National Class)

177. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein.

178. The Account Agreement imposed by Higher One contains a Connecticut choice of law provision.

179. Defendants are corporations, and thus are "person[s]" for purposes of CUTPA. Conn. Gen. Stat. § 42-110a(3).

180. Defendants' provision of banking services by means of a course of action which emanates from Connecticut constitutes "trade or commerce" within the meaning of Conn. Gen. Stat. § 42-110a(4).

181. The acts and practices engaged in by Defendants, and described herein, constitute "unfair or deceptive acts or practices in the conduct of [a] trade or commerce" in violation of CUTPA, Conn. Gen. Stat. § 42-110b(a).

182. Defendants' policies and practices as alleged herein constitute "unfair trade practices" under CUTPA, as they offend the public policy of the State of Connecticut and the United States, are unethical, oppressive, and unscrupulous, and cause substantial injury to Connecticut consumers.

183. Defendants' policies and practices as alleged herein constitute "deceptive trade practices" under CUTPA because the policies and practices have a tendency and capacity to deceive consumers.

184. Defendants' policies and practices as alleged herein are "unfair" under CUTPA. In determining whether a practice violates CUTPA, Connecticut courts are guided by the criteria set out in the Federal Trade Commission's so-called cigarette rule: "(1) [W]hether the practice, without necessarily having been previously considered unlawful, offends public policy as it has been established by statutes, the common law, or otherwise—in other words, it is within at least the penumbra of some common law, statutory, or other established concept of unfairness; (2) whether it is immoral, unethical, oppressive, or unscrupulous; (3) whether it causes substantial injury to consumers, [competitors or other businesspersons]." (Internal quotation marks omitted.) *Ventres v. Goodspeed*

Airport, LLC, 275 Conn. 105, 155, 881 A.2d 937 (2005), cert. denied, 547 U.S. 1111, 126 S.Ct. 1913, 164 L.Ed.2d 664 (2006). “All three criteria do not need to be satisfied to support a finding of unfairness. A practice may be unfair because of the degree to which it meets one of the criteria or because to a lesser extent it meets all three.” (Internal quotation marks omitted.) *Id.*

185. Defendants’ practices as alleged herein are immoral, unethical, oppressive, or unscrupulous and cause substantial injury to consumers.

186. In addition, Defendants’ practices “offend[] public policy as it has been established by statutes” and regulations.

187. As discussed above, Defendants charge students for access to their financial aid funds, in violation of DOE regulations, including 34 C.F.R. 668.164(c)(3), which state that entities are prohibited from charging a fee for delivering financial aid funds.

188. The public policy of the United States makes clear that students are to have a clear and fair choice on how to receive their financial aid funds.

189. DOE rules mandate that students must have the choice of how to receive their financial aid funds. If an educational institution opens a bank or prepaid card account on behalf of a student or parent, it must, among other requirements, “obtain in writing affirmative consent from the student or parent to open that account.” 34 C.F.R. § 668.14(c)(3)(i).

190. Defendants violate this regulation and act contrary to the public policy of the United States because they do not obtain consent from students prior to “defaulting” a student into a Higher One account they have opened.

Defendants deposit students' financial aid funds into accounts prior to any consent by student. Further, Higher One sends a pre-printed, unique debit card to students with account information already on it.

191. Higher One violates DOE guidance in Dear Colleague Letter GEN-12-08 and 34 C.F.R. 668.25, which state that a student must be informed "before the account associated with the card is opened of the terms and conditions of the card or other instrument, including any fees and other costs associated with the account" and should also "disclose how many surcharge-free ATM's are on their campus, their location, the hours that they are accessible to patrons, and, if available, a hyperlink to an ATM locator for their affiliated networks."

192. Moreover, DOE guidance requires that all information required for an authorization to open an account "must be conspicuous," Federal Student Aid Handbook (September 2011), Vol. 4 Ch. 1, at 4-7, and such information must be provided before an account is opened. 34 CFR 668.164(c)(3). Higher One does not make all information required for an authorization "conspicuous." As discussed above, Higher One does not make the Account Agreement or fee schedule reasonably available (and indeed, never provides them in written form), nor does it inform students that its "in-network" ATM system is extremely limited. Higher One therefore acts contrary to the public policy of the United States.

193. The DOE has made clear that "a school may not require or coerce the student or parent to provide an authorization..." to open an account. 34 C.F.R. § 668.165.

194. By intentionally delaying access to financial aid funds for students who opt-out of the Higher One account, Defendants coerce students to provide an “authorization” to use the Higher One account, in violation of the public policy of the United States.

195. Further, DOE has regulations that state that if a bank account is opened for a student, Higher One cannot “subsequently convert the account, card, or device to a credit card or credit instrument.” 34 C.F.R. § 668.164(c)(3)(vii). Because Defendants “default” students into an account which allows a student to overdraw the account and incur Overdraft Fees, Higher One debit cards are a “credit instrument,” in violation of the public policy of the United States.

196. Further, DOE regulations require ATM access to be convenient so that students are not charged a fee for accessing their financial aid funds. 34 C.F.R. 668.164(c)(3). As discussed above, Higher One violates this public policy.

197. Further, public policy clearly contemplates the use of federal financial aid funds only for authorized educational purposes. Defendants are in the business of distributing financial aid funds, yet they ignore public policy.

198. The HEA promulgates the public policy of the United States with respect to federal financial aid. Federal student loans and grants are to be used only to cover education-related expenses, including tuition and fees, room and board, books, school supplies, technology needs, and transportation. Loans and grants can also help pay for necessary dependent care.

199. Federal financial aid funds are not to be used for bank fees. Yet Defendants knowingly take students' federal financial aid monies to pay bank fees, contrary to the public policy of the United States.

200. Defendants also violate the public policy set out in the EFTA, and its implementing Regulation E, which provide: "No person may . . . require a consumer to establish an account for receipt of electronic fund transfers with a particular financial institution as a condition of employment or receipt of a government benefit" 15 U.S.C. § 1693k(2); see Regulation E, 12 C.F.R. § 205.10(e). Federal financial aid funds are a "government benefit" that Defendants require students to use Higher One services to access. Defendants therefore violate the EFTA.

201. As discussed above, Higher One accounts were opened for all Plaintiffs—and, overall, nearly 80% of students do not opt-out of this default.

202. Moreover, Plaintiffs were "defaulted" into the Higher One account, and were forced to affirmatively opt-out of that account in order to receive financial aid funds in a timely manner.

203. As a direct and proximate result of Defendants' employment of these unfair or deceptive acts and practices, Plaintiffs and members of the Classes have suffered an ascertainable loss within the meaning of C.G.S. § 42-110g(a) and have been damaged by Defendants' unlawful acts.

204. Plaintiffs and members of the Classes are thus entitled to all relief available under CUTPA.

SECOND CLAIM FOR RELIEF
Violations of State Unfair Trade Practice Laws
(On Behalf of the State Subclasses)

205. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein. The allegations in this Second Claim for Relief are, for all non-Connecticut citizens, pleaded in the alternative to the allegations in the First Claim for Relief.

206. This claim is asserted on behalf of the members of each State Subclass under their respective consumer protection statutes.

207. Defendants engage in unfair business practices, in violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.*, in the following respects, among others:

a. Defendants' practices relating to the imposition of bank fees are unconscionable, in violation of California Civil Code section 1770(a)(19), and, as a result, constitute an unlawful business act or practice within the meaning of the UCL;

b. Defendants' practices relating to the imposition of bank fees violate California Civil Code sections 1770(a)(5), (14) and (1), and, as a result, constitute unlawful business acts or practices within the meaning of the UCL;

c. Defendants' practices relating to the imposition of bank fees constitute unfair business acts or practices within the meaning of the UCL;

d. Defendants' violations of the federal laws and regulations specified above are unlawful, in violation of the UCL; and

e. Defendants' practices of opening a Higher One account without students' consent, into which financial aid refunds are deposited; sending a co-branded, preloaded card from Higher One with "DEBIT" and the name of students' universities stamped boldly on the front; forcing students to visit a Higher One website in order to access financial aid funds that are rightly theirs; providing indirect and delayed access to Account Agreements and Fee Schedules that were themselves filled with misrepresentations and ambiguities; due to the extremely limited number of Higher One ATMs provided, forcing students to use non-Higher One ATMs to access their financial aid money; failing to inform students that they were required to use their Higher One card as a "credit" card at the point of sale; charging PIN-based Transaction Fees when such fees are impossible to avoid; and turning the Higher One card into a credit access device, in violation of DOE regulations, each constitute fraudulent practices within the meaning of the UCL.

f. The harm to Plaintiffs and the California State Subclass arising from Defendants' unlawful and unfair practices relating to the imposition of bank fees outweighs the utility, if any, of those practices.

g. Defendants' unlawful and unfair business practices relating to the imposition of bank fees are immoral, unethical, oppressive, unscrupulous, unconscionable and/or substantially injurious to Plaintiffs and members of the California State Subclass.

h. As a result of Defendants' violations of the UCL, Plaintiffs and members of the California Statute Subclass have paid, and/or will continue to

pay, unreasonably excessive amounts of money for checking account services and thereby have suffered and will continue to suffer actual damages.

i. Pursuant to California Business and Professions code section 17203, Plaintiffs and the California State Subclass are therefore entitled to, *inter alia*:

i. An order requiring Defendants to cease the unlawful and unfair acts alleged herein;

ii. Full restitution of all bank fees paid to Defendants, pursuant to California Code of Civil Procedure section 384;

iii. Pre-judgment interest at the highest rate allowable by law; and

iv. Payment of their attorneys' fees and costs pursuant to, *inter alia*, California Code of Civil Procedure section 1021.5.

208. Defendants engage in unfair business practices relating to the non-consensual creation of bank accounts for disbursement of financial aid and imposition of bank fees on consumers, in violation of North Carolina Gen. Stat. §§ 75-1.1, *et seq.*

209. Defendants engage in unfair business practices relating to the non-consensual creation of bank accounts for disbursement of financial aid and imposition of bank fees on consumers, in violation of Texas Bus. & Com. Code §§ 17.41 through 17.63.

210. Defendants engage in unfair business practices relating to the non-consensual creation of bank accounts for disbursement of financial aid and

imposition of bank fees on consumers, in violation of Washington Rev. Code §§ 19.86.010 through 19.86.920.

211. Defendants engage in unfair business practices relating to the non-consensual creation of bank accounts for disbursement of financial aid and imposition of bank fees on consumers, in violation of Louisiana Rev. Stat. §§ 51:1401 through 51:1420.

212. Defendants engage in unfair business practices relating to the non-consensual creation of bank accounts for disbursement of financial aid and imposition of bank fees on consumers, in violation of Florida's Deceptive and Unfair Trade Practices Act, Fla. Stat. §§ 501.201 through 501.213.

213. Defendants engage in unfair business practices relating to the non-consensual creation of bank accounts for disbursement of financial aid and imposition of bank fees on consumers, in violation of Kentucky's Consumer Protection Act, Ky. Rev. Stat. §§ 367.110 through 367.990.

214. As redress for Defendants' repeated and ongoing violations of these consumer protection statutes, Plaintiffs and the State Subclasses are entitled to, *inter alia*, damages and declaratory relief.

Rescission
(On Behalf of the National Class)

215. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein.

216. Consent by Plaintiffs to the terms of Higher One's Account Agreement and Fee Schedule was not real or free and was given under mistake or fraud.

217. By, *inter alia*, using an unconscionable system of “defaulting” students into a Higher One bank account, making an opt-out from that “default” difficult and time-consuming, concealing the true costs of the Higher One accounts, and by imposing contracts of adhesion without proper notice, Higher One improperly induced Plaintiffs to contract.

218. In addition, Higher One induced Plaintiffs to enter into the Account Agreement because they each were deceived into believing that Higher One was preferred or required by their college or university for receipt of financial aid monies.

219. Higher One was not, and never was, the preferred or required provider. Indeed, federal regulations prohibit a university or college from requiring use of a particular bank account in order to receive financial aid monies.

220. Plaintiffs were induced by Higher One to enter the Account Agreement because they were required to use their Higher One account in order to avoid delayed access to their much-needed financial aid funds.

221. Each Plaintiff believed the only way to receive their financial aid money in a timely fashion was to use the default Higher One account.

222. Plaintiffs were induced to enter into the Account Agreement because Higher One concealed from them the true costs associated with the account, including the extremely limited number of “in-network” ATMs.

223. In addition, Higher One has made, and continues to make, representations it knows or reasonably should have known were false and deceptive.

224. With their consent to the contract given only under mistake or fraud, as described above, Plaintiffs seek rescission of the Account Agreement and restitution for all bank fees charged by Higher One.

THIRD CLAIM FOR RELIEF
Breach of Contract
(On Behalf of the National Class)

225. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein.

226. To the extent any valid contract exists (despite the procedural and substantial unconscionability described herein), it is embodied in Higher One's Account Agreement and Fee Schedules.

227. Higher One has breached the Account Agreement through its policies and practices as alleged herein.

228. Specifically, even if the Fee Schedule had been properly provided to students prior to or after account opening (which it was not), the Fee Schedule states: "Non-Higher One ATM Transactions (\$2.50 per transaction). Charged if the student uses any ATM that is not a Higher One ATM." The Fee Agreement and Account Agreement indicate only a single fee will be charged for out of network ATM withdrawals.

229. However, Plaintiffs (with the exception of Plaintiff Hannibal) paid \$4.50 or more for the use of a non-Higher One ATM.

230. Therefore, Higher One breached the Account Agreement when it allowed the assessment of upwards of \$4.50 in fees for each of Plaintiffs' non-Higher One ATM withdrawals.

231. Plaintiffs and the National Class have performed all, or substantially all, of the obligations imposed on them under the Account Agreement.

232. Plaintiffs and members of the National Class have sustained damages as a result of Higher One's breach of contract.

FOURTH CLAIM FOR RELIEF
Breach of the Implied Covenant of Good Faith and Fair Dealing
(On Behalf of the National Class)

233. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein.

234. A covenant of good faith and fair dealing is implied in Plaintiffs' and Class members' Account Agreements with Higher One.

235. The Account Agreements give Higher One discretion to determine whether or not to approve a transaction which overdraws an account, causing an Overdraft Fee.

236. As alleged herein, Higher One has abused its discretion by systematically approving overdraft transactions and charging Plaintiffs Price, Crockett, and B. Kent Overdraft Fees for the same transactions.

237. Higher One's performance of its discretionary functions under the Account Agreements as alleged herein, to maximize their revenue from Overdraft Fees, impedes the right of Plaintiffs and other members of the Classes to receive benefits that they reasonably expected to receive under the contract, as the

financial aid money entrusted to Defendants for their banking activities was reduced.

238. On information and belief, Higher One's actions as alleged herein were performed in bad faith, in that the purpose behind the practices and policies alleged herein was to maximize Defendants' revenue from Overdraft Fees at the expense of their customers, in contravention of Plaintiffs' reasonable expectations and in contravention of federal regulatory requirements that accounts into which financial aid funds are deposited not be given credit features.

239. Plaintiffs and members of the putative National Class have sustained damages as a result of Higher One's breach as alleged herein.

FIFTH CLAIM FOR RELIEF
Conversion
(On Behalf of the National Class)

240. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein.

241. Defendants had and continue to have a duty to maintain and preserve their customers' financial aid funds and to prevent their diminishment through their own wrongful acts.

242. By placing students' financial aid funds into Higher One accounts without students' consent, by defaulting students into Higher One accounts, by making it difficult for students to opt-out of this default, and by charging the bank fees specified herein, Defendants have, without proper authorization, assumed

and exercised the right of ownership over these funds, in hostility to the rights of Plaintiffs and the members of the National Class, without legal justification.

243. Defendants have wrongfully collected PIN-Based Transaction Fees, non-Higher One ATM Fees, and Overdraft Fees from Plaintiffs and the members of the National Class, and have taken specific and readily identifiable funds from their accounts in payment of such fees in order to satisfy them.

244. Defendants have, without proper authorization, assumed and exercised the right of ownership over these funds, in hostility to the rights of Plaintiffs and the members of the National Class, without legal justification.

245. Defendants continue to retain these funds unlawfully and without Plaintiffs or members of the National Class' consent.

246. Defendants intend to permanently deprive Plaintiffs and the members of the National Class of these funds.

247. These funds are properly owned by Plaintiffs and the members of the National Class, not Defendants, who now claim that they are entitled to their ownership, contrary to the rights of Plaintiffs and the members of the National Class.

248. Plaintiffs and the members of the National Class are entitled to the immediate possession of these funds.

249. Defendants have wrongfully converted these specific and readily identifiable funds.

250. Defendants' wrongful conduct is continuing.

251. As a direct and proximate result of this wrongful conversion, Plaintiffs and the members of the National Class have suffered and continue to suffer damages.

252. By reason of the foregoing, Plaintiffs and the members of the National Class are entitled to recover from Defendants all damages and costs permitted by law, including all amounts that Defendants have wrongfully converted.

SIXTH CLAIM FOR RELIEF

Unjust Enrichment

(On Behalf of the National Class) (In the Alternative)

253. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein, excepting those paragraphs which allege the existence of a valid contract.

254. By means of Defendants' wrongful conduct alleged herein, Defendants knowingly provide banking services to Plaintiffs and members of the National Class that are and/or were unfair, unconscionable, and oppressive.

255. Defendants knowingly received and retained wrongful benefits and funds from Plaintiffs and members of the National Class. In so doing, Defendants acted with conscious disregard for the rights of Plaintiffs and members of the National Class.

256. As a result of Defendants' wrongful conduct as alleged herein, Defendants have been unjustly enriched at the expense of, and to the detriment of, Plaintiffs and members of the National Class.

257. Defendants' unjust enrichment is traceable to, and resulted directly and proximately from, the conduct alleged herein.

258. Under the common law doctrine of unjust enrichment, it is inequitable for Defendants to be permitted to retain the benefits they received, and are still receiving, without justification, from the imposition of PIN-Based Transaction Fees, non-Higher One ATM Fees, and Overdraft Fees on Plaintiffs and members of the National Class in an unfair, unconscionable, and oppressive manner. Defendants' retention of such funds under circumstances making it inequitable to do so constitutes unjust enrichment.

259. The financial benefits Defendants derived rightfully belong to Plaintiffs and members of the National Class. Defendants should be compelled to disgorge in a common fund, for the benefit of Plaintiffs and members of the Classes, all wrongful or inequitable proceeds Defendants received. A constructive trust should be imposed upon all wrongful or inequitable sums Defendants received traceable to Plaintiffs and the members of the National Class.

260. Plaintiffs and members of the National Class have no adequate remedy at law.

SEVENTH CLAIM FOR RELIEF
Statutory Theft: Conn. Gen. Stat. § 52-564
(On Behalf of the National Class)

261. Plaintiffs repeat and reallege the preceding and subsequent paragraphs as though set forth herein.

262. Plaintiffs and members of the National Class have property interests in the financial aid funds that were deposited, without their consent, in accounts maintained by Defendants.

263. By automatically depositing such funds, and by debiting improperly disclosed, unusual, and unconscionable bank fees from the accounts of Plaintiffs and the National Class, Defendants have permanently deprived Plaintiffs and the National Class of their property.

264. Defendants' assessment of bank fees on Plaintiffs' financial aid funds was not authorized by the contract nor was it otherwise authorized by law.

265. Defendants intended to permanently deprive Plaintiffs and the National Class of the funds that they debited from Plaintiffs' accounts.

266. Plaintiffs and the National Class have been damaged by Defendants' acts in violation of Conn. Gen. Stat. § 52-564.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the Classes demand a jury trial on all claims so triable and judgment as follows:

1. Declaring Defendants' policies and practices to be wrongful, unfair, and unconscionable;
2. Permanently enjoining Defendants from continuing their unfair, fraudulent, wrongful, and deceptive acts alleged herein;
3. Restitution of all PIN-Based Transaction Fees, non-Higher One ATM Fees, and Overdraft Fees paid to Defendants by Plaintiffs and the Classes, as a result of the wrongs alleged herein, in an amount to be determined at trial;

4. Disgorgement of the ill-gotten gains derived by Defendants from their misconduct;
5. Establishment of a constructive trust over all of the proceeds in Defendants' possession belonging to the Plaintiffs and members of the Classes;
6. Actual damages, in an amount according to proof, of at least Five Million Dollars (\$5,000,000.00), excluding interest and attorneys' fees;
7. Punitive and exemplary damages;
8. Penalties authorized by CUTPA or any other state consumer protection law;
9. Attorneys' fees;
10. Damages and other relief pursuant to the Electronic Funds Transfer Act;
11. Pre-judgment and post-judgment interest at the maximum rate permitted by applicable law;
12. Costs and disbursements assessed to Plaintiffs in connection with this action, including reasonable attorneys' fees pursuant to applicable law; and
13. Such other relief as this Court deems just and proper.

Dated: March 1, 2013

Respectfully submitted,

/s/ Hassan A. Zavareei
Hassan A. Zavareei

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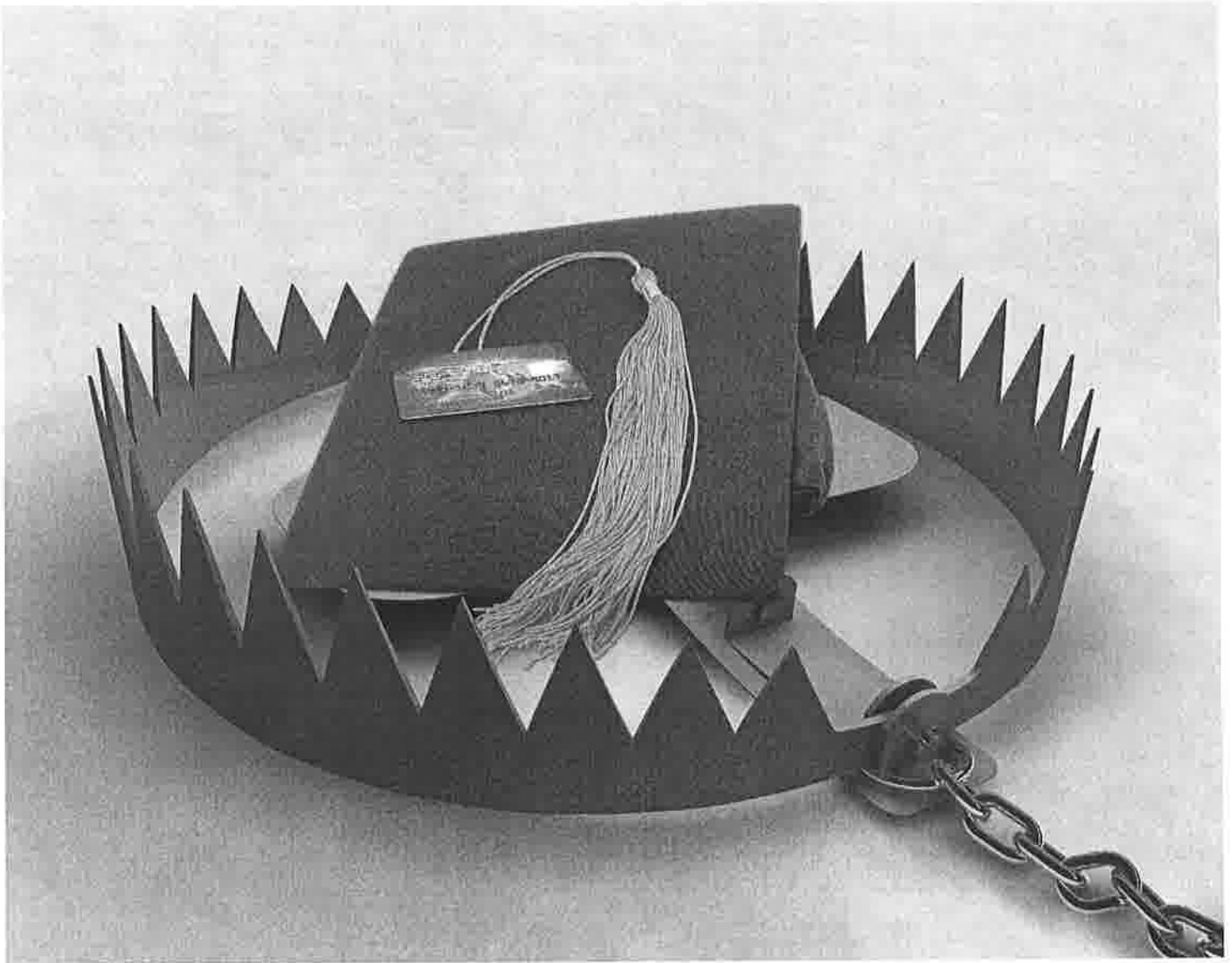
Proposed Plaintiffs' Steering Committee

CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2013 a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Hassan A. Zavareei
Hassan A. Zavareei

EXHIBIT A



The Campus Debit Card Trap

Are Bank Partnerships Fair To Students?

U.S. PIRG
Education Fund

The Campus Debit Card Trap

Are Bank Partnerships Fair To Students?



May 2012

By Rich Williams, Higher Education Advocate, U.S. PIRG Education Fund, with
Edmund Mierzwinski, Consumer Program Director, U.S. PIRG Education Fund.

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Summary and Key Findings

Banks and other financial firms are taking advantage of a variety of opportunities to form partnerships with colleges and universities to produce campus student ID cards and to offer student aid disbursements on debit or prepaid cards. In addition to on-campus services, such as student ID functions offered on the card, some cards offer traditional debit card services linked to bank accounts; other cards provide additional reloadable prepaid card functions. The disbursement of financial aid and university refunds is the most significant partnership identified.

While schools are obtaining revenues and reducing costs by outsourcing certain services, the relationships between schools and financial institutions have raised questions because students end up bearing some costs directly – including per-swipe fees, inactivity fees, overdraft fees and more. Other issues include the effect of aggressive marketing strategies by partnering companies on student choice and weaker consumer protections on certain cards that hold student aid funds.

For example, students are not necessarily making their financial choices freely. When the college has selected a student ID vendor that “incidentally” offers additional banking services on the college-mascot-embellished card, the student’s choices are limited and the student is under the presumption that the college endorses the provider.

Inquiries into the privatization of government benefits through the use of prepaid cards in other sectors, such as state unemployment benefits, have suggested that transparency of terms and fees, as well as contracts, leads to governments making better deals, with fewer fees, for their clients.¹

This U.S. PIRG Education Fund report is an overview of the campus card marketplace and includes a survey of campus cards at the 50 largest public universities, 50 largest community colleges, and 20 largest private universities by campus population. It recommends best practices by colleges and banks and new protections for consumers, and provides tips for students. Greater transparency will help make the market work better.

Key Findings:

- U.S. PIRG has identified almost 900 card partnerships between colleges and banks or other financial firms at schools with over 9 million students, or over 2 in 5 (42%) of all students nationwide.
- Industry leading banks and financial firms tout that upwards of 70%-80% of students use their cards after a few years of marketing.
- U.S. PIRG has identified that 32 of the 50 largest public 4-year universities, 26 of the largest 50 community colleges, and 6 of the largest 20 private not-for-profit schools had debit or prepaid card contracts with a bank or a financial firm.
- Of banks, US Bank had the most card agreements, at 52 campuses with over 1.7 million students. Wells Fargo had card agreements at schools with the most students; its contracts were at 43 campuses that have over 2 million students.
- The largest financial firm player, Higher One, has card agreements with 520 campuses that enroll over 4.3 million students.

- Although contracts are hard to obtain, revenues to schools can be substantial. A new contract between Ohio State University and Huntington Bank includes \$25 million in payments to the school over 15 years. It also includes an additional \$100 million in lending and investment to neighborhoods surrounding campus.
- Fees can be steep and frequent for students using the university-adopted cards, including a variety of per-swipe fees, inactivity fees, overdraft fees, ATM fees and fees to reload prepaid cards.
- At least one fee listed on Higher One's fee schedule would violate U.S. Department of Education rules if charged; other fees may violate other rules.
- Potentially aggressive marketing tactics can make students captive customers.
- Access to student financial aid funds placed on debit cards can be subject to limited availability of "convenient" fee-free ATMs for student loan withdrawals despite U.S. Dept. of Education rules. Students end up paying fees to access their aid.
- Debit card contracts have been controversial at some campuses.
- Some practices, such as outsourcing of student ID functions and pre-loading of disbursement cards, raise privacy issues.

Based on our evaluation of issues surrounding the growing campus card marketplace and their potential impact on students, we make detailed recommendations at the end of this report, to campuses, to banks and financial firms and to regulators, including the following:

Campus Card Best Practices

To ensure that students are benefiting from a campus debit card program, campus debit cards should adhere to the following best practices:

1. **Students Should Have An Unbiased Choice of Where to Bank.** The bank account you get as a student may continue with you for decades. Such an important choice shouldn't be skewed by which financial institution gave the school the most money. For financial aid disbursements, campuses should provide students a diverse set of disbursement options that clearly include the ability to use their own existing bank account and ability to choose to receive a check.
2. **Low Fees.** Colleges should negotiate away fees that students incur on their debit cards as well as make it easier for student debit card consumers to avoid fees. Fees should not be charged to financial aid funds. A specific list of fees that should be eliminated appears below under "Key Recommendations for Campuses."
3. **Safe Checking Fees.** For accounts not related to federal student aid, student checking accounts should meet the minimum requirements of the FDIC Model Safe Accounts Template,² modified to address the needs of students. Fees on student accounts should be reasonable and proportional to services rendered and all fees should be disclosed prominently on the bank's website, mailers and other materials.
4. **Unrestricted Access to Funds.** Campuses should provide, and regulators should require, an adequate number of regularly-replenished on-campus

ATMs for financial aid disbursement. ATM deployment measurements should be based on need during peak-use times, such as the beginning of a semester or quarter.

5. **Strong Consumer Protections.** Given the public's perception that a debit card is a debit card (whether or not it is prepaid), colleges should insist that all campus debit cards carry the same level of consumer protections extended to ATM debit card customers under the Electronic Funds Transfer Act. Appendix 2 goes into more detail on differences in consumer protections between various cards.
6. **No Push Marketing.** The marketing surrounding these cards may result in a student being pushed into a product or an agreement that isn't best suited for his or her needs. Given that the campus debit card has already been chosen by the college, providing an implicit endorsement, there must be strong rules to avoid push marketing. Students should not be subjected to branding and advertising by banks and financial companies unless they affirmatively opt in. Students should be able to opt in or out of the university-sponsored debit card program through the campus itself, rather than making the option through provider sponsored venues such as a provider website.
7. **No Conflict of Interest.** Banks or firms engaged in partnerships with schools can offer large financial incentives, which at least create the appearance of a conflict of interest for the school. Contracts should be disclosed so that the public knows that the school chose the debit card program that gives students the best deal rather than the one that gave the college the most money.

Key Recommendations for Policymakers

To ensure that students are protected within a campus debit card program, regulators can make the following changes to federal rules that define the market:

1. **Eliminate fees for financial aid disbursement cards.** Policymakers should update federal regulations that govern disbursement of federal student aid to ensure that high banking fees are not charged to students who can afford them the least.
2. **Increase transparency and tracking.** Policymakers should collect more data on debit card practices on campus to better understand the market. Policymakers should extend important transparency provisions for credit card contractual relationships included in the Credit CARD Act and the Higher Education Act to any debit card contracts on campus.
3. **Enforce the laws and the rules.** The Consumer Financial Protection Bureau, other bank regulators and the Department of Education should, as appropriate, supervise key players in the marketplace and use enforcement action if needed to make sure firms comply with the laws and that students receive every protection afforded to them under the higher education and financial services laws.
4. **Other Recommendations.** In the recommendations section of this report, U.S. PIRG Education Fund provides a more detailed list of regulatory changes that policy makers can pursue, as well as tips for students who must navigate the muddy waters of the campus debit card marketplace.

The Increasing Role of Financial Players on Campus: Credit Cards, Student Loans, And Now, Debit Cards

Financial institutions have sought an increased role on campuses for years. Bank participation in the campus debit card business is just one of many recent moves to take advantage of what they view as a key business demographic.

As college costs have risen, studies have documented that some students are taking out more student loans and, in some cases, relying on credit cards to pay educational costs. Some students, with their families feeling pressure to pay for college, may end up relying on bank products such as private student loans that may be riskier and higher cost than federal loan options. Often, students may not have been given adequate information to make the best choices.

First generation college students and those from low-income backgrounds are particularly vulnerable to higher cost educational products. Roughly 40% of freshmen are first-generation college students, and 25% of all students are both first generation and low income.³ Emerging on campus as new consumers, or returning to college for a career change, nearly all students are looking for ways to pay for school and may find themselves susceptible to unfair and abusive financial practices.

Avoiding the Campus Credit Card Trap

Over the last decade or more, university leaders and policymakers in Congress and state capitals devoted significant attention to the marketing of credit cards to students at colleges and universities. Colleges, then state legislatures and, ultimately, Congress itself responded to growing evidence of the power of credit card companies on campus. Abuses ranged from deceptive credit card marketing to a growing reliance by schools themselves on bank payments based not on alumni use of cards but on access to undergraduate lists. A growing number of colleges and universities imposed on-campus credit card marketing restrictions. Some university systems and state governments took further action.

An ongoing U.S. PIRG Education Fund campaign beginning in 2008 had urged colleges to adopt fair campus credit marketing principles at the same time as U.S. PIRG Education Fund's parallel "FEESA Card" counter-marketing education project aimed at students urged them not to respond to the lure of credit card marketing inducements.

Following these actions by numerous schools and several states, in 2009, Congress responded to a variety of unfair credit card practices affecting all consumers with comprehensive legislation known as the Credit CARD Act.⁴ The law included several reforms that were designed to limit unfair marketing to college students

and other young people; additional provisions were intended to improve the transparency of the relationship between campuses and credit card companies.

These reforms included the following: restrictions on using “free” gifts as inducements to sign up for cards at on-campus tables, a requirement that young people 18-21 show an ability to pay or obtain a co-signer to get a card and, finally, the establishment of transparency of college credit card contracts. These contracts were originally required to be sent to the Federal Reserve Board of Governors for analysis and public disclosure, but the Consumer Financial Protection Bureau now has this responsibility.⁵

Cracking Down on Student Lenders

In 2007, then-New York Attorney General Andrew Cuomo led an investigation into lending practices on campus. The investigations uncovered various banks and lenders providing financial kickbacks to colleges and employees for preferential treatment. Banks would pay colleges to steer student borrowers to their private loan products through “preferred lender lists,” resulting in many students receiving high interest rate loans. The investigation prompted many universities to change their lending policies and federal lawmakers to crack down on the practice in 2008, banning gifts and revenue-sharing agreements between student lenders and schools, which resulted in students taking on private student loans that may have been riskier for them than other loans.

At the same time banks and lenders were taking advantage of preferred lender lists, they also marketed private loan products to students through their status as federal loan lenders in the Federal Family Education Loan Program. Responsible for offering federal Stafford loans, banks and lenders would also hawk private

loan products often packaged and designed to look like federal loan offers. Sallie Mae offered both a “Sallie Mae Stafford loan” and a “Sallie Mae Signature loan” which confused many new borrowers and potentially ensnared them in a higher cost loan.

In 2010 Congress outright removed banks from the federal student loan system in part to protect students from banks cross-selling expensive financing options to students who assumed they were government products.

Debit and Prepaid Cards and Other Services: The Next Frontier

While banks were under close scrutiny for the marketing and terms of private loans and credit cards on campus, they were quietly establishing a new and rapidly growing campus debit and prepaid card business. Just as they had developed relationships with colleges to issue exclusively branded credit cards or heavily-promoted private student loans, banks and new, non-bank financial firms have been co-branding ATM/debit cards on behalf of their collegiate partners, turning college IDs into debit cards and taking over financial aid disbursement systems.

In the wake of restrictions to credit card marketing and student loan reform, the next financial frontier for banks and financial firms has been that growing business of marketing campus debit and prepaid cards and offering incentives to schools to outsource or privatize various financial and administrative functions.

In a survey of websites, college officials and students conducted in the spring of 2012, U.S. PIRG identified, as described in the following tables, that the following schools had either a campus debit or prepaid card contract with a bank or a financial firm.

- 32 of the 50 largest public 4-year universities, (Table 1, follows)⁶
- 26 of the top 50 community colleges, (Table 2, follows)
- 6 of the top 20 private not-for-profit schools (Table 3, follows)

There is no question that state budget cuts have created incentives for schools to raise revenues through outsourcing. States have cut college budgets, so schools under pressure to reduce costs have re-evaluated and outsourced a variety of services, including parking services and residential halls. However, the outsourcing of

student ID services and financial aid disbursement systems to banks and financial firms has given those firms an unprecedented opportunity to market add-on products—bank accounts, ATM/debit cards and even loans and credit cards—to students with virtually no competition. The structure of the new products deserves review as their fee structures could put students at risk.

To help students get a fair deal, and to help university officials and policy makers make sense of the complexity of the campus debit card marketplace, the next sections examine the campus debit card products that are available, and point out problems within the various debit card models that put the student consumer at risk.

Table 1: 50 Largest 4-year Public Institutions by Campus Population and those with Financial Card Partners (32)

Rank	Institution Name	Partner (if any)	Rank	Institution Name	Partner (if any)
1	Arizona State University	MidFirst Bank	26	University of Maryland-College Park	
2	Miami Dade College	Higher One	27	University of North Texas	Wells Fargo
3	University of Central Florida	SunTrust	28	Temple University	PNC Bank
4	Ohio State University	Huntington Bank	29	University of California-Berkeley	
5	University of Minnesota-Twin Cities	TCF Bank	30	California State University-Fullerton	US Bank
6	The University of Texas at Austin		31	California State University-Northridge	
7	University of Florida	Wells Fargo	32	University of Georgia	
8	Texas A & M University	Wells Fargo	33	North Carolina State University at Raleigh	US Bank
9	Michigan State University		34	College of Southern Nevada	
10	Pennsylvania State University-Main Campus	PNC Bank	35	California State University-Long Beach	
11	University of Illinois at Urbana-Champaign	TCF Bank	36	University of California-Davis	US Bank
12	University of Washington-Seattle Campus	US Bank	37	Utah Valley University	Utah Community Credit Union
13	Indiana University-Bloomington	Indiana University Credit Union	38	George Mason University	
14	University of Wisconsin-Madison	UW Credit Union	39	Texas State University-San Marcos	Wells Fargo
15	University of South Florida-Main Campus		40	University of Colorado Boulder	Elevations Credit Union
16	University of Michigan-Ann Arbor	TCF Bank	41	University of Missouri-Columbia	
17	Purdue University-Main Campus		42	University of Cincinnati-Main Campus	PNC Bank
18	Florida International University	Wells Fargo	43	Virginia Commonwealth University	Wells Fargo
19	Florida State University	SunTrust	44	St Petersburg College	Higher One
20	Broward College	CitiBank	45	Texas Tech University	Higher One
21	University of California-Los Angeles		46	Wayne State University	Higher One
22	University of Maryland-University College (online)		47	Virginia Polytechnic Institute and State University	
23	University of Arizona	Wells Fargo	48	University of Utah	
24	Rutgers University-New Brunswick		49	California State University-Sacramento	Wells Fargo
25	University of Houston	Higher One	50	Indiana University-Purdue University-Indianapolis	
Total Schools With Partners = 32					

Source: U.S. PIRG Web and Telephone Survey: Spring 2012

Table 2: 50 Largest 2-year Institutions by Campus Population and those with Financial Card Partners (26)

Rank	Institution Name	Partner (if any)	Rank	Institution Name	Partner (if any)
1	Houston Community College	Higher One	26	Central New Mexico Community College	
2	Lone Star College System		27	The Community College of Baltimore County	
3	Tarrant County College District		28	Mesa Community College	Citi Bank
4	Northern Virginia Community College		29	Montgomery College	
5	Austin Community College District	Higher One	30	De Anza College	Higher One
6	Valencia Community College	Higher One	31	Sacramento City College	Higher One
7	American River College	Higher One	32	El Camino Community College District	Sallie Mae
8	Salt Lake Community College	Blackboard	33	Long Beach City College	Higher One
9	Pima Community College		34	San Antonio College	Heartland
10	City College of San Francisco		35	Fresno City College	
11	Portland Community College	Sallie Mae	36	Rio Salado College	Citi Bank
12	Tidewater Community College		37	Suffolk County Community College	
13	Cuyahoga Community College District	Sallie Mae	38	Georgia Perimeter College	Higher One
14	Santa Monica College		39	Santa Rosa Junior College	
15	Columbus State Community College		40	Des Moines Area Community College	Higher One
16	El Paso Community College		41	San Diego Mesa College	
17	Mt. San Antonio College	Higher One	42	Saddleback College	Higher One
18	Oakland Community College	U.S. Bank	43	Macomb Community College	Higher One
19	San Jacinto Community College	Higher One	44	Orange Coast College	Sallie Mae
20	East Los Angeles College	Higher One	45	Nassau Community College	
21	Hillsborough Community College	Higher One	46	Central Texas College	
22	Collin County Community College District		47	Sinclair Community College	
23	Pasadena City College		48	Harrisburg Area Community College-Harrisburg	Higher One
24	College of DuPage		49	College of the Canyons	
25	Palomar College		50	CUNY Borough of Manhattan Community College	Citi Bank
Total Schools With Partners = 26					

Source: U.S. PIRG Web and Telephone Survey: Spring 2012

Table 3: 20 Largest 4-year Private Institutions by Campus Population and those with Financial Card Partners (6)

Rank	Institution Name	Partner (if any)	Rank	Institution Name	Partner (if any)
1	Liberty University	Higher One	11	George Washington University	
2	New York University		12	University of Pennsylvania	PNC Bank
3	University of Southern California		13	DePaul University	PNC Bank
4	Brigham Young University		14	Drexel University	
5	Boston University		15	Western Governors University	Sallie Mae
6	Excelsior College		16	St. John's University-New York	
7	Northeastern University		17	Johns Hopkins University	Higher One
8	Nova Southeastern University		18	Cornell University	
9	Harvard University		19	Northwestern University	US Bank
10	Columbia University in the City of New York		20	Syracuse University	
Total Schools With Partners = 6					

Source: U.S. PIRG Web and Telephone Survey: Spring 2012

Overview of Campus Cards, Functions, and the Players

Student IDs are used for a variety of purposes on campus, including secure entry into dorms, libraries and other facilities. Colleges long ago began adding “closed loop” monetary functions onto these IDs, giving them dual functions as both student ID and reloadable prepaid cards to be accessed when paying for campus laundry, meals, athletic events and books. Banks and other firms saw an opportunity to offer these services to campuses, building in more functions to the cards. They’ve added “open-loop” debit card functions (card is usable anywhere a regular credit or debit card can be used both on and off campus). Some cards are debit cards coupled with a bank account; others are offered as reloadable prepaid cards.

More recently, banks and financial firms, notably a now twelve-year-old company called Higher One, saw the opportunity to outsource student aid disbursements and provide them through a variety of channels – electronic transfer, check or debit card – but with the debit card as the firm’s preferred default.

Functionality of Cards. Campus cards come in a variety of forms. For the purposes of this report, the functionality of campus cards falls into four main categories:

1. School Services and Campus Access;
2. On-campus Financial;
3. Off-campus Financial;
4. Financial Aid Disbursement.

1) School Services and Campus Access: For decades colleges have offered on-campus non-financial services linked to student ID cards. For example, a student can swipe an ID card when checking a book out of the library, entering the fitness center and attending sporting events. Additionally, some campuses are expanding this functionality to new programs like bike-shares and dorm and room key card access.

2) On-campus Financial: Many schools implement a closed-loop reloadable prepaid card system that allows students to load money onto an account maintained by the campus or a partnering bank. After loading the card, the student is able to access funds directly from his or her student ID.⁷

This type of reloadable account is often referred to as “campus bucks” or “campus cash.” Money loaded on the card can be spent in dining halls, vending machines, laundry services and the bookstore. Occasionally campuses will have agreements with a handful of near-campus vendors to be part of the closed-loop system which allows students to swipe their student IDs to pay for goods. Examples of these locations are usually the local pizza shops and fast food restaurants. Some student ID cards will maintain multiple closed-loop debit systems on one card with separate funds for each. For example, these cards will provide access to a pool of money that can be used for food on campus and a separately managed pool of money for all non-food purchases.

3) Off-campus Financial: More and more schools are starting to partner with banks or financial firms that

offer open-loop debit card accounts. Open-loop cards are connected to signature payment networks such as Visa, Mastercard, Discover or American Express or to PIN-based debit payment systems including Interlink, Plus or Cirrus. These networks allow the cards to be used almost anywhere.

There are two basic types of open-loop debit cards. First, there are reloadable prepaid cards⁸ which are not connected to a checking or deposit account. This card allows the student to use the card until it declines to \$0 and allows for re-loading the card with funds at any point. While these cards may appear to work almost identically to an ATM/debit card associated with a traditional checking account, prepaid cards of all varieties come with different contracts and fewer legal protections than debit cards linked to traditional bank accounts. Students typically reload or add funds at grocery stores, convenience stores and other retailers for a fee or electronically for a lower fee or no fee. These cards can link to student IDs or exist as a separate card.

Second, some cards are debit/ATM cards linked to a checking account. A student will typically load funds onto the account at local bank branches or ATMs or electronically. Many checking accounts offered will in-

clude additional features a student can opt into. These cards can also be attached to student IDs or exist as a separate card.

4) **Financial Aid Disbursement:** Both types of open-loop debit cards offer the potential for schools or their contracted partners to load payroll, financial aid disbursements, and campus refunds or any type. When the disbursement of federal financial aid is tied to the cards there are several requirements schools and banks must meet. For example, federal regulations require that federal student aid funds can only be disbursed to a card if it is linked to an individually-FDIC-insured bank account.⁹

All of these types of open-loop debit cards and their variations can also do double duty as an official campus identification card, which may mean that a bank/financial aid firm has taken over the process of issuing IDs at the school. Although it is not a subject of this report because we were unable to obtain enough contracts to review, additional inquiries should be made into the privacy implications of whether colleges are granting banks and other financial firms the right to additional, secondary uses of the detailed information collected from student use of the ID cards on the systems that they administer.

The Banks and Financial Firms Behind Campus Cards

The following graph shows some of the leading banks and financial firms engaged in the campus card market and describes some of the products that they offer.

Note in the graph that all the banks with an “X” in column 1 could offer financial aid disbursement services because financial aid can be disbursed to any bank account by an electronic transfer. To date, all banks listed

on our table are affirmatively marketing this service, some, like TCF Bank and SunTrust, are more active than others. However, the primary business model for virtually all of the financial firms is to disburse financial aid onto cards.

Also note that virtually every bank offers a card that functions as a co-branded student ID and is linked to


Table 4: Table of banks, non-bank financial firms and financial service companies providing outsourced card services to college campuses

	Financial aid disbursement	Prepaid debit card	Traditional Checking Account	School Card Partnerships	Number of Students Attending (When Known)	Notes: Number of Partnerships
Bank Partnerships						
US Bank	x	x	x	51	1,764,475	58 partnerships, 51 schools with a campus card.
Wells Fargo	x		x	43	2,056,390	
PNC Bank	x	x	x	23	244,700	
Suntrust	x	x	x	3	98,500	
TCF Bank	x		x	5	179,557	
Commerce Bank	x	x	x	3	47,709	
Huntington	x		x	1	64,400	
TOTAL				129	4,455,731	
Financial Firm/Non-Traditional Bank Partnerships						
Higher One	x		x	520	4,300,000	
Sallie Mae	x	x	x	180	N/A	Mostly prepaid cards, new checking account being implemented.
Blackboard	x	x		25	120,000	Newly offered service. Also has up to 500 partnerships for student ID services, including closed-loop campus only debit cards.
Heartland	x	x		23	112,358	23 colleges with open-loop. Also about 200-250 additional accounts for closed-loop campus only cards. Some cards may have Discover Card brand.
Netnet	x	x		N/A	N/A	Newly offered service.
ECSI	x	x		N/A	N/A	Offers general services to 1,400 schools, a portion with pre-paid debit cards.
TouchNet	x	Expected 2013		0	N/A	Currently disburses aid for around 300 schools.
American Express		x		1	16,700	Possible financial aid expansion soon.
TOTAL				749	4,549,058	
TOTAL ALL				878	9,004,789	

Note: This table only includes banks and firms with multiple schools listed, except Huntington with one known partner. Huntington Bank is listed because of the size of its one known contract, at Ohio State University. This chart is an underestimate of the market place because there are several other banks, credit unions or financial firms with at least one campus partner. Chart drawn from industry surveys, including CR80, and U.S. PIRG web and phone based research.

a bank account. Some non-bank financial firms also link to student IDs. The bank strategy is to obtain a longtime relationship with the student consumer; the financial firm strategy is to earn greater fee income from the consumer in a shorter relationship.

As one example, TCF Bank has alliances with the University of Minnesota, the University of Michigan, the University of Illinois and two other colleges. These alliances include exclusive marketing, naming rights and other agreements. Branches have been opened on many of these college campuses. TCF provides multi-purpose campus cards for many of these colleges. Its cards serve as a school identification card, ATM/debit card, library card, security card, health care card, phone card and stored value card for vending machines or similar uses. TCF is ranked 5th largest in number of campus card banking relationships in the U.S. On December 31, 2011, the bank held \$274.3 million in campus deposits. TCF has a 25-year naming rights agreement with the University of Minnesota to sponsor its on-campus football stadium, "TCF Bank Stadium," which opened in 2009.¹⁰



Use Your U Card!

	Gopher GOLD™ Value	FlexDine	Meal Plans	Student Account	TCF U Card Checking
ATMs					X
Collman Post Office	X				
Computer Print Labs	X				
Library Photocopiers	X				
Student Unions	X				
UDS Dining	X	X	X		
U of M Bookstores	X			X	
Vending Machines	X				
Off Campus Merchants					X

Marketing TCF's U Card at the University of Minnesota

Business Is Booming

Campus card programs now exist at nearly nine-hundred colleges and universities in partnership with traditional banks and non-bank financial firms.¹¹ Banks offer card programs that are defined by their banking options. Because certain federal financial aid programs require funds to be disbursed into FDIC-insured bank accounts, financial firms and financial service companies providing financial aid disbursement cards partner with existing banks to provide additional functions such as access to bank accounts and ATM cash.

According to a leading industry survey conducted for the 2011 academic year, 151 schools had campus debit card/student ID programs with seven¹² leading banks. Higher One, a large non-bank financial firm, reported in its Securities and Exchange Commission (SEC) filing through March 31, 2012 that 520 campuses servicing more than 4.3 million students used its disbursement service; over 2.1 million of those students used its OneAccount debit account.¹³

PIRG analysis of the market suggests relationships between schools and other banks and financial firms pushes the total number of campus partnerships to almost 900 of the total 7,300 schools participating in the federal aid system. Over 9 million of the 21.6 million college students nationally attend these schools. Industry-leading banks and financial firms tout that upwards of 70%-80% of students who receive student aid use their cards after a few years of marketing. Higher One alone operates at colleges enrolling 1 in 5 students across the country. Currently 12.5%, or 1 in 8, of all federal financial aid recipients nationally disburse their aid money into a Higher One OneAccount.

Student Fee Income Is the Backbone of the Business Model

Banks and non-bank financial firms involved in the campus debit card marketplace have incentives that are similar in some ways and different in others. All companies, regardless of type, benefit from a variety of fees imposed on students using the cards, from fees imposed on merchants accepting the cards, from interest earned on the value of cards before their use and, sometimes, from contractual fees for services from the school.

In addition to any personal funds deposited in accounts, banks and financial firms benefit from the temporary use of billions of dollars in financial aid funds loaded on the cards. Financial aid funds likely represent a large percentage, if not the majority, of deposits on campus cards.

Traditional Bank Incentives

Banks attempt to increase their customer base through various forms of marketing. While they spend a significant amount on advertising and marketing to convince their competitors' customers to switch one at a time, they also seek opportunities to capture large groups of customers through side-deals with gatekeepers who can offer them exclusive access.

Traditional banks partner with schools to increase marketing access to students.¹⁴ It is simpler for a current or recent college student seeking to open a new account or obtain a loan to do it with a banking institution she already has developed a relationship with.¹⁵ College partnerships are one of the most cost effective

ways for banks to get new long-term customers. College campuses provide a plentiful supply of these types of customers all within a small geographic area. By signing exclusive contracts with campuses to have their accounts and brand associated with the college, banks hope to recruit large numbers of students to their bank and work to keep them once they graduate. The students who stick with their accounts will provide a long-term stream of revenue for the bank. Because of the long-term relationship goal, banks are able to create competitively priced checking options for students, reduce or waive business service fees or even pay schools for the opportunity to partner.

But traditional banks don't lose out on the opportunity to offset their investment costs with revenues that occur with campus partnerships. Banks earn revenues each time a student uses his or her card through interchange fees (paid by merchants accepting cards) and even more through fees associated with the checking account. A listing of the variety of fees layered into these cards is available in the Recommendations section under "Recommendations for College Campuses" as well as in Appendix 1. Banks also make money on the deposits stored on in their bank accounts. When financial aid funds, payroll income and disbursements are released into student accounts, banks are able to re-invest the deposited funds in higher interest revenue sources, such as capital funds to provide higher interest private student loans, home loans or car loans.

However, banks lack higher education expertise and don't typically provide options for schools to fully privatize their disbursement processes. This lack of expertise

sometimes makes it more appealing for schools to partner with a specialized financial firm which can take over all aspects of the disbursement process from schools.

Non-Bank Financial Firm Incentives

With a different business model than banks, financial firms may seek to partner with schools to provide fee-based services to both the institution and the student. Financial firms are not banks so their interaction with the student consumer is, for the most part, only while they are in school. The nature of this short-term interaction creates an incentive to increase fee revenue over what traditional banks might charge. It also necessitates obtaining revenues from the school paying for services. Financial firms have bank partners that hold the deposits of financial aid money once it is disbursed, and typically have revenue sharing agreements with their partnering bank based on how much is deposited.¹⁶ Financial firms may offer both traditional checking accounts and/or prepaid cards depending on the company.

Financial firms, including American Express,¹⁷ may offer prepaid card products in partnership with a college. These companies make money each time the student loads money on the card, on top of interchange fees from merchants each time it is used for purchases. New legislation generally restricts the amount big banks may charge merchants when a consumer uses a bank account-connected debit card, but those limits exempt debit cards from smaller banks and prepaid cards from any issuer. While there are fewer of these arrangements on campus, it is a business model that allows schools to outsource and expand their on campus closed-loop system and replace it with an open-loop system managed by the financial firm.

Incentives to the Colleges and Universities

Of course, colleges themselves have an incentive to create these partnerships. In a time of massive funding shortfalls and state budget cuts driving tuition higher, schools are searching for ways to make their services more cost effective and increase revenues. For schools, participating in the federal financial aid program takes staff time and expertise. Banks and financial firms offer an efficient way to centralize costs by managing the disbursement process while meeting all required federal accountability measures.

Schools also can receive significant financial compensation from these partnerships including signing bonuses from banks and direct financial incentives, which we discuss in the “Issues Surrounding the Marketing of Cards” section of this report. Those financial benefits create at least the appearance of a conflict of interest as schools may be tempted to choose the arrangement that gives the school the most money rather than the arrangement that gives their students the best deal. Even schools that operate their own systems without a bank partner could implement layers of fees to generate revenue.

Students can easily become captive consumers in the campus card marketplace, given the incentives that are in place to motivate banks, financial firms, and colleges to create unfair fee structures. Therefore, colleges and policy makers must establish strong rules of the game for these campus card programs to ensure that students are not unfairly targeted for fees or add-on marketing of other products.

Campus Cards and Financial Aid Disbursement

Students are especially vulnerable in the early part of their financial lives. A defining characteristic of college students is that most of them receive federal financial aid through grants and loans to attend their college or university. Campus card providers have begun to specialize in this area of a student's financial life.

Each semester financial aid money for eligible students flows to colleges. The institution applies the funds to allowable charges, such as tuition. Many students are eligible for more aid than their institutional charges, so the college disburses the remaining credit balance to the student so he or she can pay non-institutional costs, such as textbooks, transportation, food and other bills. By law, when a credit balance occurs the school must pay the credit balance to the student within 14 days.¹⁸ Traditionally, the university gave the student the money by check. Financial aid rules now allow schools to issue the credit balance by directly paying the student through an electronic funds transfer, issuing a check or other instrument, and disbursing to the student in cash.¹⁹

With the student's permission, the institution is allowed to hold the credit balance, providing access to the funds electronically through a prepaid card or school-issued bank account. Funds that are accessed through a debit card are typically available faster than checks, allowing students to access their financial aid several days before a check could otherwise be cut.

The school may choose to privatize financial aid disbursements to a bank or financial firm. These third-party servicers act as the college and share the same

responsibilities and liabilities under law. While each school's student aid disbursement process could differ by choice and company, most agreements allow banks and financial firms to disburse funds to students through a variety of channels such as to the student's existing bank account, by check, on a prepaid card, or to a bank account created for the student by the bank or company.

The financial aid playing field is large. In 2013 alone, the Department of Education is expected to disburse \$160 billion to about 16 million students in loans and grants.²⁰ This money provides valuable deposits and potential for free revenue for the bank as it is spent.

Student Fees, Financial Aid Disbursement Cards and Federal Rules

The number of different fees and the amount of total fees collectible from each student is based on a wide range of factors including the type of bank or firm and financial product used. Each firm may have different fees associated with their cards. Often, potential fees will vary based on the specific type of account a student chooses from the bank. Fee structures also differ based on the financial product the student uses, such as whether it is a prepaid card or a traditional debit card linked to their checking account.

In the case of cards used to disburse federal financial aid, the question of fees is even more important, since

Summary of Department of Education Rules For Loan Disbursements

In cases in which the institution holds the credit balance and opens a bank account on behalf of a student or parent, establishes a process the student or parent follows to open a bank account, or similarly assists the student or parent in opening a bank account, the institution must:

- Obtain in writing affirmative consent from the student or parent to open that account;
- Before the account is opened, inform the student or parent of the terms and conditions associated with accepting and using the account;
- Not make any claims against the funds in the account without the written permission of the student or parent, except for correcting an error in transferring the funds in accordance with banking protocols;
- Ensure that the student or parent does not incur any cost in opening the account or initially receiving any type of debit card that is used to access the funds in that account;
- Ensure that the student has convenient access to a branch office of the bank or an ATM of the bank in which the account was opened (or an ATM of another bank), so that the student does not incur any cost in making cash withdrawals from that office or these ATMs. This branch office or these ATMs must be located on the institution's campus, in institutionally-owned or operated facilities, or, consistent with the meaning of the term "Public Property" as defined in §668.46(a), immediately adjacent to and accessible from the campus;
- Ensure that the debit, stored-value or ATM card, or other device can be widely used and not limited to particular vendors;
- Not market or portray the account, card, or device as a credit card or credit instrument, or subsequently convert the account, card, or device to a credit card or credit instrument.

the student is receiving taxpayer-provided money. Students receiving grant aid, such as the Pell grant, are mostly low-income students with a high level of need. Students taking out federal loans are primarily from low and moderate income backgrounds, paying interest on those funds.

Several legitimate questions can be raised when student aid money is disbursed to campus debit cards. First, if the fees are charged to grant money, is it fair to low-income students attending college that the federal program was intended to help? Second, if the fees are charged on loan money, is it fair for the student to pay fees with borrowed money, and thus pay interest on the fees? Third, is it fair to all taxpayers that millions of dollars of funds intended to support college costs are skimmed into corporate coffers?

ATM Fees and Federal Rules

Students can use automated teller machines (ATMs) to access money deposited on any type of debit card, but fees vary based on the card being used. Students using an ATM owned and operated by their own card-issuing bank typically get free access to their funds, but incur a 'foreign ATM' fee imposed by their own bank if they use another bank's ATM. This fee is in addition to the surcharge fee which is almost always also assessed by the foreign ATM owner itself. Combined, the fees can quickly add up. Studies have shown that a typical ATM surcharge is \$3 and a typical foreign ATM fee is \$2, meaning each use of a foreign ATM by a student could incur fees totaling \$5.

Firms issuing federal financial aid onto debit cards must meet certain ATM guidelines. Strong ATM guidelines are particularly relevant to students using financial aid disbursement cards because financial firms rely almost exclusively on ATMs to act as their bank branches. Extra attention needs to be paid to how convenient these ATMs are to students.

The Department of Education has established rules that prohibit fees to access student aid money disbursed to a debit card on ATMs as long as the issuing bank provides conveniently located fee-free ATMs.²¹ However, the rules specifically allow the bank to charge foreign ATM fees when students use other machines. The current rules do little to define what “conveniently” located means in terms of location or number of ATMs, as well as cash availability in the ATMs when disbursements arrive. The rules do not protect students from situations in which they are charged money to access their aid funds. The rules do not protect students from changing terms and conditions that impact fee structures and can affect their ability to access their aid freely and conveniently.



Line at one of the two Higher One ATMs at a college as spring quarter classes start, April 2012. Line continues in both directions where picture ends, totaling around 50 students. Both ATMs ran out of money by lunchtime.

Students will pay more ATM fees when access to fee-free machines is limited. Convenience issues include both whether the fee-free machines are located conveniently on campus, whether there are enough of them to adequately serve the student population and whether the machines are rapidly replenished during peak periods such as the opening days of a semester or quarter. Many campuses, for example, may only have one ATM from the card-issuing bank, leaving students vulnerable to excessively long lines and no back up if that ATM breaks or runs out of cash. Students often need their financial aid funds immediately upon disbursement. These ATMs can run out of cash very quickly as a result, forcing students “at the back of the line” into banking at a foreign ATM.

For example, Higher One disburses financial aid to students at about 520 schools across the country, but has only about 600 ATMs in service. Without enough ATMs to properly handle the demand of students when funds are disbursed many will be forced to use ATMs out of Higher One’s network and incur fees. One student interviewed by the authors who attends a school using Higher One reported a line of over 50 students trying to access their financial aid in the days immediately after funds are disbursed. Furthermore, ATMs may be placed in areas that are not accessible 24 hours a day, 7 days a week, such as in buildings locked up on the weekends or overnight, forcing students to use foreign ATMs and pay fees. Higher One encourages ATMs to be placed inside by charging higher fees to schools for ATMs placed outside.²²

In addition, schools can enter into arrangements with a financial aid disbursement company while simultaneously holding an exclusive on-campus banking agreement with a different bank. Exclusive banking agreements typically prohibit any ATMs on campus except for those of the contracted bank. In this scenario the ATMs for the financial aid disbursement company would not be allowed on campus. For example, if a school has a contract with a traditional bank for ATMs but uses Sallie Mae or Higher One for disbursement, all Sallie Mae or Higher One ATMs are forced to be inconveniently located off campus. Because the ATMs are not located in a prominent location, such as the student union, students are more likely to rely on the foreign ATMs on campus and incur fees. Thus, the weak federal rules allow the disbursement firms to still meet the regulation requirements, but student-consumers don't necessarily gain the benefits.

Finally, federal rules do nothing to address how easily students can access their money through an ATM. Banks and financial firms can set restrictive policies like requiring a minimum transaction to be no less than \$50, as Higher One does. Consumers with less than \$50 on a card are forced to use up the funds with swipe purchases at point-of-sale only, rather than obtaining cash. Prevalent PIN-based swipe fees may cause the student to incur more fees.

Many students need their aid money as soon as possible after disbursement. Financial firms may not of-

fer quick transfer of aid to an alternative bank account chosen by the student. One student interviewed for this report said that he was forced to pick Higher One's OneAccount even though he wanted to use his own account because he cannot wait the extra 3 to 4 days for a wire to his own bank account. His solution was to opt into the Higher One card and then withdraw the maximum amount he could from the Higher One ATM on disbursement day and deposit it into his own account. Typically, there is a "run" on campus card ATMs on the day of disbursement. ATMs on campus often run out of cash quickly.

When ATM machines run out of cash, student aid recipients are forced to use foreign ATMs and could incur both a foreign fee and a surcharge totaling around \$5 in fees simply to access their financial aid.

Last, the federal rules are silent on the terms and conditions that student consumers are subjected to by bank and firm providers. While colleges and universities sign multi-year or decade-long contracts with banks and financial firms, nothing prevents the providers from changing the terms and conditions of student accounts whenever they want. For example, Higher One changed both its fee structure and the terms and conditions of its accounts for millions of students when it changed its partner bank. Students, already vulnerable as consumers in this area, are subject to unexpected changes in terms.

A Closer Look at the Biggest Player: Higher One

Financial firms, according to a review of available SEC filings, expect to earn significant fee income from students. Since the traditional bank-issued campus cards are offered by some of the nation's biggest banks, and the contribution of campus cards to the banks' income statement is not broken down in detail, it is useful to look at public record information from Higher One. This firm is a publicly-traded, monoline company that competes in the campus prepaid and debit card space and provides ancillary services to schools. Higher One has contracts with 520 campuses servicing more than 4.3 million students. Of the over 4 million students, 2.1 million of those students use its OneAccount checking account. Over 350 schools also use at least one of its payment services.²³

Higher One's business model is simple

It contracts with colleges and universities for its OneDisburse disbursement management program. All students use OneDisburse to select whether their disbursement is by check, direct deposit or to an OneAccount debit card. Higher One seeks to maximize selection of the OneAccount debit card, which in turn maximizes potential fee revenue. They also sell various checking account options which have potentially higher fees for a variety of different services.

This strategy has worked well. Since 2007, Higher One has posted a 43% growth rate each year in the number of stu-

dents enrolled at their partner schools, growing from one-million students in 2007 to 4.3 million students in 2012.

How do they do it? Once the school is signed, Higher One begins student recruitment. Marketing works so well that student adoptions and use of the OneAccount grow from around 33% after the first year on campus to over 66% after 3 to 4 years. This adoption curve leads to rapid company growth. OneAccount use expanded from 359,000 students in 2007 to just over 2 million by 2012.²⁴

Higher One has three main sources of revenue. It receives 10% from higher education institutions, 10% from payment transaction revenue and 80% from account holder revenue (fees).²⁵ In one of its most recent filing with the Securities and Exchange Commission, Higher One reported this portion of its income came from the following: "interchange fees, ATM fees, non-sufficient funds fees, other banking services fees and convenience."²⁶ Accounting for all revenues, from 2007 to 2011, Higher One increased revenues by 630%, growing from \$28 million to \$176.3 million.²⁷

These fees add up for students. The financial results from Higher One provide only a window on the potential fee income firms can garner from partnering with universities, but the view it gives is clear: students pay a lot of money in fees when using these cards. An analysis by Bretton Woods, Inc, commissioned by Higher One, revealed the annual median cost of maintaining each of the 2 million OneAccounts was \$49 per student.²⁸

Student Complaints Concerning Higher One

Students at several universities have escalated complaints to the level of protest. As reported in The Oregonian newspaper, in response to student complaints, Portland (OR) State University and Southern Oregon University have re-negotiated Higher One contracts to eliminate a 50 cent transaction fee for using PIN debit instead of signature debit at point-of-sale. As noted above, Higher One makes a larger merchant interchange profit on signature transactions. But the story also notes that the new contracts include a requirement that the schools participate in a successful "swipe and sign" campaign or pay a financial penalty. The story also states students are upset with a \$2.50 foreign ATM fee, charged at ATMs not owned by Higher One and in addition to any surcharge that the foreign ATM owner may impose.²⁹

Students and families at Western Washington University protested Higher One³⁰, resulting in Higher One reviewing many of its policies.³¹ One student in North Carolina complained about aggressive marketing tactics from Higher One, which resulted in a temporary suspension for the student.³²

In early 2012, Sherry McFall, a Higher One customer, filed a class action lawsuit under allegations of violations of the California's Unfair Competition Law, the Consumer Legal Remedies Act, and the Electronic Funds Transfer Act in connection with alleged improper disclosures of fees and costs associated with opening and maintaining an account.³³

Regulatory Inquiries Concerning Higher One

Students aren't the only ones protesting; federal and state regulatory agencies have turned their eyes to Higher One. Let-

ters of inquiry have been sent by agencies including the State of Texas Department of Banking, the State of Washington Department of Financial Institutions and the State of Oregon Department of Consumer and Business Services.³⁴ In 2007, the Office of the Attorney General of the State of New York issued a subpoena against Higher One to provide information about clients and business practices.³⁵ In November 2011, the Office of the Attorney General of the State of Florida issued an investigatory subpoena pursuant to Florida's Deceptive and Unfair Trade Practices Act.³⁶ In late 2011, news broke that the US Department of Education was investigating claims that Higher One violated financial aid rules by not providing ways for students to access their aid fee for free at the Dallas County Community College District.³⁷

In February 2011, the New York Regional Office of the Federal Deposit Insurance Corporation (FDIC) notified Higher One it was prepared to recommend enforcement action be taken for violations of relating to compliance management system and policies and practices for past overdraft charging on persistently delinquent accounts, collection and transaction error resolution.³⁸ Enforcement action is only taken by the FDIC when a pattern of persistent abuses is evident. Higher One responded to the notification by amending practices, crediting former customers approximately \$4.7 million, and selecting a banking partner the FDIC does not supervise.³⁹ Final action has not been taken by the FDIC.

In a guidance letter released by the U.S. Department of Education in late April 2012, it made clear that Higher One's \$50 fee for 'lack of documentation', a fee currently listed on its fee schedule, would violate federal rules if charged. The letter also raised concerns about violations to student privacy when financial firms like Higher One issue yet-to-be activated debit cards with student information attached, in the anticipation that students will opt to use the card. Additionally, the letter makes it clear students are always eligible to receive their disbursements through a check within 14 days, a practice Higher One currently does not provide for some campuses.⁴⁰

Issues Surrounding the Marketing of Campus Cards

Students are at risk as campus card consumers, given the incentives that are in place to motivate banks, financial firms and colleges to create unfair fee structures. To the extent that the college or university has already made a 'preferred' choice on their behalf for their banking and loan disbursement needs, there is also potential that students become captive consumers in the campus marketplace.

Based on how the campus debit card market is set up now, students may not have the ability to exercise true consumer choice in how to receive their financial aid disbursements because of aggressive marketing. In some cases, they have little choice but to participate. Not only do financial aid websites sponsored by the campus describe student options in a variety of potentially confusing ways, but banks and financial firms make it hard for students to have true consumer choice. Revenue sharing agreements between colleges and bank partners based on student fee income further muddy the waters.

Two conditions enable confusion to reign in the campus debit card marketplace. First, because the college has pre-selected a partner, it has made what is at least an implied endorsement that can mislead students into thinking that their financial interests are protected. Second, many campuses elect not to create their own materials to describe and promote the campus card program, relying instead on the material provided by the bank or financial firm. So students are push-marketed into signing up for the program.

This is the case with Higher One,⁴¹ which directs students to a university co-branded webpage.⁴² Students must visit Higher One, where only then may they choose their disbursement option. The site is quick to make it clear that their products are the preferred option. The card is the denoted preferred choice on the seller's page and includes the college logo, not on a more neutral site managed by the campus. This has the potential to make the student a captive customer.

Choose your refund preference

Join more than 1 million students who have already selected same day deposit to the OneAccount. Unsure if this is the right choice for you? It's easy to change your preference at any time.

Already know you want a same day refund? Choose Select OneAccount to get started.

Same day deposit to the OneAccount	Deposit to another account	Paper check
Preferred		
University Releases Money	University Releases Money	University Releases Money
Money Available to Spend	Submit ACH Information to Higher One	Check Printed
Same Day	Higher One Sends Money to Federal Reserve	Higher One Mails Check
	Federal Reserve Sends Money to 3rd Party Bank	U.S. Postal Service Delivers Check
	Money Available to Spend	Receive Check in Mail
	2-3 Business Days	Check Cashed
		Money Available to Spend
		5-7 Business Days
Back	Show Options	Select OneAccount

Sample from a school slide to students starting orientation

Continuing with the Higher One example, if a school has a contract to disburse student loan funds and the student selects the preferred option of “load my funds on a card,” then the student must automatically open a bank account with Higher One as a condition of receiving the funds in that form. The student has lost the ability to shop around and must rely on the college’s contract with Higher One for the terms of her account. Understanding the terms of these contracts is vital. Misunderstanding the product being used can lead to negative consequences, such as even higher fees and damaged credit.

Beyond this example, the U.S. PIRG Education Fund survey found other marketing tactics employed on campus and by partner banks and firms to “persuade,” and in some instances force, students into picking the campus debit card option. Tactics also include revenue sharing agreements.

1. Program Terminology That Confuses Students.

While this report attempts to explain which card variants are used on campus, there is little effort on the side of banks and schools to differentiate between the products. Most commonly, campus financial aid websites and banks refer to their cards simply as debit cards. Student consumers may have built in assumptions about the product and its fee structures and costs. Quite simply, they are likely to think that a debit card is a debit card and won’t discern the key differences.

University of Memphis offers a closed-loop prepaid card but describes the card simply as “works like a debit card.”⁴³ Likewise, Montana State University’s card is a closed-loop prepaid card but calls itself an “on-campus debit card.”⁴⁴ The student may not understand the differences of that card compared to another if not presented clearly. Other campuses do a better job, such as Salt Lake Community College, which describes its student ID as a Discover prepaid debit card.⁴⁵ Students need to know what they are actually signing up for in order to make informed decisions.⁴⁶

On many campuses, the student ID doubles as a debit card for a partner bank. While students can opt into or out of banking services, they almost never have the ability to opt out of the advertising. Schools with co-branded IDs subject students to continued advertisement every time they look at their ID to pay for meals, enter the dorms, and do just about anything else on campus.⁴⁷

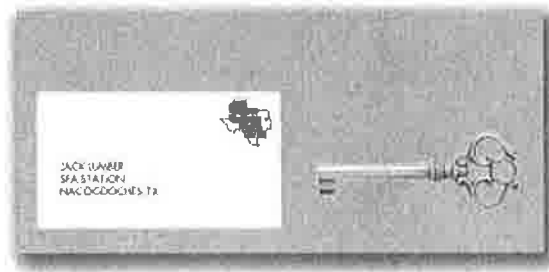
2. Co-Branding of Campus Materials Leads to Choice by Default. Banks go to extra lengths to co-brand with the school.⁴⁸ Many students trust their schools and often think of co-branding as an endorsement. This causes many students to drop their guard, expecting their school has negotiated the best deal for them. Banks will co-brand on school IDs, fliers and banners all over campus, sponsor and support sporting events and clubs and package together financial literacy lessons for the campus.⁴⁹

Sallie Mae requires campuses to participate in a marketing campaign to promote their products, such as providing specific language to use in directing students to their website. Mississippi Valley State University⁵⁰ and Paine College⁵¹ have identical pages telling students all student disbursements will be processed through Sallie Mae, then directs them to Sallie Mae’s portal.

3. Student Information Is Turned Over to the Bank in Advance. Many students are first contacted by the bank before they ever arrive on campus. Banks and financial firms use their access to student information to send university branded solicitations about financial aid disbursements.⁵² Often, the disbursement card is mailed to the student before he or she has made a disbursement selection.⁵³ These tactics set the expectation that the school has already set up the bank account for the student and that they don’t have a choice. Even if they opt out of the campus debit card, the bank or firm now has the students’ contact information, which could be used for future product marketing efforts, which may be a violation of the Family Educational Rights and Privacy Act (FERPA).⁵⁴

Don't Toss It!

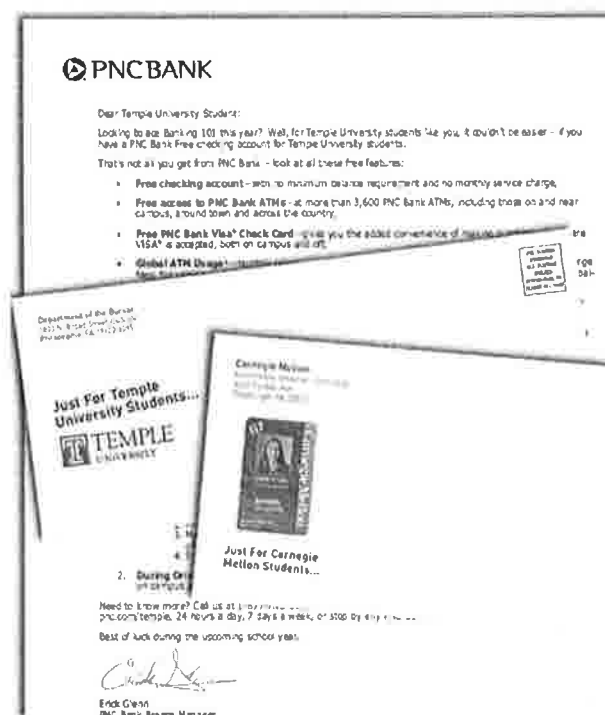
This envelope is the key to your refund!



Federal law prohibits sending an unsolicited card to consumers except under limited circumstances. The card must not be validated, and it must be accompanied by clear disclosures of that fact and of how the consumer can dispose of it if it is unwanted.⁵⁵ It is unclear if students are receiving this information or are misled about it.

4. Some Students Are Virtually Forced To Opt In. Students are encouraged to sign up for the financial aid disbursement cards, even if they do not expect financial aid disbursements, because refunds from over-payments, such as when a student drops a class that she already paid for, are disbursed this way. Higher One schools Rogers State University⁵⁶ and South Georgia College⁵⁷ also have virtually identical pages instructing students, "You **must activate your card** as soon as you receive it. Remember, even if you are not currently expecting a refund, we may have a refund for you in the future."

Some schools have taken away all choice and mandate that all funds be disbursed into a checking account chosen by the college. Pittsburg State University in Kansas requires all excess financial assistance funds, tuition refunds, and other miscellaneous university refunds to be placed on a Gorilla Card checking account with Commerce Bank. If the student isn't creditworthy



enough for the checking account, the student is still locked into Commerce Bank with a prepaid card.⁵⁸



Activate your card now

ceive their student aid disbursement through a check, and are possibly a violation of the Electronic Funds Transfer Act, which prohibits requiring a consumer to have an account at a particular institution as a condition of receiving government benefits, which may include federal student aid.⁵⁹

But banks don't let up easily. Some remind students that sticking with the campus sponsored debit program over their own bank will get them money fastest. They will set up physical barriers to selecting a student's own

This practice of forcing students to receive campus disbursements through a campus card appears to be contradictory to Department of Education rules that always enable a student to re-

bank, such as requiring hand written forms for verification that must be faxed in, rather than enabling a simple electronic transaction. Students who are dependent on vital student aid funds to pay for basics such as textbooks at the beginning of each term as well as other expenses like food, rent and transportation are ultimately hamstrung into selecting the option that provides aid in the quickest manner, but not the best.

5. Aggressive Tabling and Freebies Obscure Student Choice. To provide extra reach, bank employees set up tables at on-campus events such as new student orientation and health and wellness events to further promote the product,⁶⁰ which may cause the student to trust the brand even more.

FREE U OF M SWEATSHIRT!

Make your first deposit of \$50 or more to your new TCF U Card Checking account and receive a U of M sweatshirt compliments of TCF Bank (limit one sweatshirt per customer).



Banks also seem to be falling back to old marketing tactics to distract students from reading the fine print. TCF Bank offers students free sweatshirts to sign up for their student bank accounts and deposit \$50.⁶¹ Credit card banks have been banned from requiring students to apply in order to get their freebies.

6) Revenue Sharing and Exclusive Contracts Present a Conflict of Interest. Some contracts between schools and banks incentivize the school to deliver more student accounts or pay the school outright, based on fee income. For example, Higher One maintains a current revenue sharing contract with the University System of Georgia and the Georgia Department of Technical and Adult Education. The institution receives '8 basis points of the net' from campus signature-based transactions completed by One Account holders. The system also receives a portion from the average interest generated by One Account accountholders in the system.⁶² Quinnipiac University partners with BlackBoard and receives a percentage of merchant fees collected by usage of their prepaid cards.⁶³

While Higher One ended revenue sharing agreements for new contracts in 2008, it continues to maintain old contracts that could be renewed for decades, and continues to offer steep discounts for schools that use debit card disbursement. In 2010, after being initially rejected for a contract, Higher One offered \$1.1 million in computer software programs for free to the Colorado Community College System (CCCS), but only in exchange for giving the fee-driven debit cards to 130,000 CCCS students.⁶⁴

As of 2008, TCF Bank paid University of Minnesota \$40 million to secure a contract through 2030;⁶⁵ while Portland State was expected to receive \$300,000 on top of administrative savings.⁶⁶ In early 2012, Ohio State University inked a deal with Huntington Bank to provide \$25 million in payments to the school over 15 years to be used for academics, student life, athletics, the alumni association and endowment investments. Its agreement also includes an additional \$100 million in lending and investment in neighborhoods surrounding campus.⁶⁷

A closer look at Florida State University:

IFSU has a partnership with SunTrust bank to provide checking accounts attached to student FSUCards. Any student can open a SunTrust account and students who receive financial aid each year have the option of receiving any credit balances through a SunTrust account, or wait up to 14 days for a paper check. In 2009, 26,000 students received some form of aid during the academic year. Given limited options, 80% of students elected to receive their aid on their FSUCard, depositing over \$100 million to SunTrust bank accounts.

What does SunTrust pay for the privilege of branding every student ID with their logo and holding onto millions in deposits? Each year, 1.2% of the average monthly amount on FSUCards is given to FSU. This was about \$410,000 in 2009. FSU is also paid \$0.35 for every foreign ATM transaction conducted with a FSUCard. Additionally, SunTrust pays \$18,000 a year to the school to help promote the program.

Source: CR80News. Florida State University sets the bar for what campus card bank partners can achieve. Spring 2010.

Recommendations

As this report has documented, students are confronted with frustration and financial barriers that undermine their campus experience when participating in a poorly structured debit card program. They are subject to fees that are unnecessary and unfair, with little consumer protection and practically no choice in the marketplace. Additionally, their college or university could have an interest in promoting certain debit card practices that exacerbate these problems. In contrast, a well-structured campus debit card program provides benefits to students by enabling them to access their financial aid and personal monies quickly and conveniently, which improves all aspects of their post-secondary careers.

From the vantage point of the financial sector, colleges and universities are the gatekeepers to the highly coveted college student market. Because of this reality, colleges and universities are well positioned to leverage their market power over providers to deliver the benefits of a well-structured debit card program to students. Perhaps more significantly, all colleges and universities, public and private, are entrusted to advance the public good. It is incumbent upon them to ensure an ethical campus marketplace for students, one in which the education of its students is not undermined by the college's own financial practices.

Likewise, federal agencies must do more to increase the transparency of the market and strengthen basic consumer protections for student debit card consumers. In particular, financial aid disbursement cards

should have stronger rules so that students and taxpayers can be assured that federal aid dollars are spent to pay for college rather than to increase bank profits. The regulatory gray area in which these cards currently exist enables improper and unfair banking practices that undercut student success.

Based on our evaluation of the growing campus card marketplace and its potential impact on students, we suggest a set of principles for a well-structured debit card program on campus. In addition, we have created a set of recommendations for key stakeholders:

- Principles for a Well Structured Debit Card Program on Campus
- Key Recommendations for Campuses
- Key Recommendations for Students
- Key Recommendations for Policymakers

For the two regulators with the power to define and clarify the campus debit card marketplace, we offer more specifics:

- Specific Recommendations for the US Department of Education
- Specific Recommendations for the Consumer Financial Protection Bureau

Principles for a Well Structured Debit Card Program on Campus:

1. **Students Should Have An Unbiased Choice of Where to Bank.** The bank account you get as a student may continue with you for decades. Such an important choice shouldn't be skewed by which bank gave the school the most money. For financial aid disbursements, campuses should provide students a diverse set of disbursement options that clearly include the ability to use their own existing bank account and ability to choose to receive a check.
2. **Low Fees.** Campuses should negotiate away fees that students incur on their debit cards as well as make it easier for student debit card consumers to avoid fees. Fees should not be charged to financial aid funds. A specific list of fees that should be eliminated appears below under "Key Recommendations for Campuses."
3. **Safe Checking Fees.** For accounts not related to federal student aid, student checking accounts should meet the minimum requirements of the FDIC Model Safe Accounts Template,⁶⁸ modified to address the needs of students. Fees on student accounts should be commensurate with services rendered and all fees should be disclosed prominently on the bank's website, mailers and other materials.
4. **Unrestricted Access to Funds.** Campuses should provide, and regulators should require, an adequate number of regularly-replenished on-campus ATMs for financial aid disbursement. ATM deployment measurements should be based on need during peak-use times, such as the beginning of a semester or quarter.
5. **Strong Consumer Protections.** Given the public's perception that a debit card is a debit card (whether or not it is prepaid), colleges should insist that all campus debit cards carry the same level of consumer protections extended to ATM debit card customers under the Electronic Funds Transfer Act. Appendix 2 goes into more detail on differences in consumer protections between various cards.
6. **No push marketing.** The marketing surrounding these cards may result in a student being pushed into a product or an agreement that isn't best suited for his or her needs. Given that the campus debit card has already been chosen by the college, providing an implicit endorsement, there must be strong rules to avoid push marketing are in place. Students should not be subjected to branding and advertising by banks and financial companies unless they affirmatively opt-in. Students should be able to opt in or out of the university-sponsored debit card program through the campus itself, rather than making the option through provider sponsored venues such as a provider website.
7. **No Conflict of Interest.** Many banks or financial firms engaged in partnerships with schools can offer large financial incentives, which at least create the appearance of a conflict of interest for the school. Contracts should be disclosed so that the public knows that the school chose the debit card program that gives students the best deal rather than the one that provided the college the most money.

Key Recommendations For Campuses

Colleges and universities can deliver a well-structured campus debit card program for students in the following ways:

1. Schools should provide students a clear and unbiased choice of where to bank. Schools should ensure that students can elect to receive their student aid and other refunds through their own bank accounts online or on a check, not have to undertake a complex paper process which attempts to direct students to bank preferred options.
2. Campuses should negotiate away fees students incur on their debit cards and make it easier to avoid fees.
 - **ATM Fees** Campuses should provide, and regulators should require, an adequate number of regularly-replenished on-campus ATMs for financial aid disbursement. ATM deployment measurements should be based on need during peak-use times, such as the beginning of a semester or quarter. In addition, colleges should also explicitly prohibit imposition of point-of-sale fees for safer, PIN-based transactions.
 - **Overdraft and insufficient funds fees:** Many banks encourage consumers to incur avoidable overdraft fees by pushing them to opt-in to overdraft “protection” on their debit and ATM cards, when purchases could instead simply be denied with no fee if the account has insufficient funds. Banks also often downplay cheaper options for overdraft protection for checks and electronic payments. In our review of the online materials provided by either colleges with campus cards or their bank partners (the banks are required to provide certain Federal Reserve mandated disclosures), we were

unable to find any sites, maintained either by the colleges or the banks, that recommended against opting-in to “standard overdraft protection” overdraft programs. The bank sites met the letter of the modest federal disclosure requirements, but continue to market overdraft fee programs.

Schools could either post warnings urging their students not to opt-in to “standard overdraft programs” or, better still, could require banks or financial partners to prohibit “standard overdraft protection” as a condition of their contractual relationship. In debit and ATM card overdraft fee situations, the bank has the opportunity to refuse to pay before the good has been received by declining the transaction just as they do when a consumer tries to use a credit card whose credit limit has been reached. That’s what should happen with these student debit cards. That is what happens when consumers do not opt-in.

Short of a total prohibition, schools should insist on a minimal overdraft fee—e.g. \$10, with a limit of no more than one fee per semester or quarter and 2 per year. Schools should refuse to use banks that manipulate the order in which payments are processed in order to increase overdraft fees and choose only banks that process transactions either chronologically⁶⁹ or from smallest to largest to minimize the number of transactions that incur fees. Finally, the 2010 federal rules do not restrict checking account or recurring electronic payment overdrafts. As discussed above, the current rules allow banks to encourage consumers to opt-in to “Standard Overdraft Protection,” the most expensive program for covering overdrafts. Colleges could insist that any checking account linked to a campus card provide and clearly promote low cost overdraft lines

of credit and ban marketing of expensive fee-based overdraft coverage.⁷⁰

- ❑ **Insufficient funds fees:** Universities should also negotiate away insufficient funds fees and overdrawn fees. Universities should insist purchases simply be declined but should also insist on elimination of “decline” fees at ATMs or point-of-sale (POS).
- ❑ **Transaction (including PIN) Fees:** Students should not have to pay money just to pay for purchases. While a fee for a PIN-based transaction can be avoided by using a signature, most regular (non-campus) bank accounts linked to debit MasterCards don’t have the same fee at all. Moreover, a PIN is normally required if the student wants to avoid ATM fees by getting cash back from a purchase. Banks, and firms like Higher One, should use carrots, not sticks, to encourage behavior that they prefer.⁷¹ Schools should work to eliminate these pay-to-pay fees.
- ❑ **Abandoned account fees:** These fees should be negotiated out of contracts. If an account is inactive, the institution should give the student notice, close the account, and issue a full refund of any remaining funds. Short of a full ban, accounts should only be assessed these fees after 24 months of inactivity and fees should be minimal, such as \$1 per month, with a maximum cap of \$10.
- ❑ **Check fees:** Because many students use their funds to pay for rent and other bills that require a check, all student accounts should come with one free check book.
- ❑ **Account closure fee:** An account should only be closed after a student ends a relationship with a school. All remaining funds on the ac-

count should be reimbursed to the student through a check, minus any administrative fees of no more than \$10.

- ❑ **Replacement card fee:** Colleges should negotiate out any charges for replacement debit cards. A replacement fee may seem warranted should the card be lost. But because the mailed cards can be mistaken as a solicitation, students should not be responsible for the replacement card if their first card was tossed out and never activated. Likewise, there should be no fee for natural wear and tear, such as debit strips that become demagnetized. Students who are charged for natural wear and tear will ultimately have to pay for basic access to their student aid.
 - ❑ **Transfer or wire fee:** Colleges should negotiate to have at least one free transfer for every disbursement as a precaution for when they are misled into a banking account when they really wanted the money to be placed in their own account.
 - ❑ **Refund fees, reloading fees and balance inquiry fees:** Colleges should negotiate these fees out of contracts.
3. Schools should not enter into revenue sharing agreements with banks.
 4. Schools should take responsibility for all marketing, including managing websites that allow students to select their disbursement option and provide financial aid debit cards and bank-branded student IDs only to students who opt in.
 5. Schools should closely guard the information of their students and never share that information—particularly with a for-profit company aimed at increasing profits. At the very least, schools should

ensure that student contact information cannot be used for any secondary purpose in any other avenue of marketing beyond initial contact for participation in the campus card program.

6. For accounts not related to federal student aid, student checking accounts should meet the minimum requirements of the FDIC Model Safe Accounts Template, modified to address the needs of students. Fees on student accounts should be commensurate with services rendered and all fees should be provided prominently on the banks website or mailers.
7. Schools should publicly disclose a breakdown of the average annual costs incurred by students based on debit cards activated via-third party servicers.
8. Schools should enter into third-party contracts with banks carefully. The college may be ultimately liable if it violates the law or regulations.
9. Schools should insist on elimination of any pre-dispute mandatory arbitration clause in any student contract. Pre-dispute mandatory arbitration immunizes bad behavior from legal action and perpetuates unfair practices.

Key Recommendations for Student Card Holders

Unfortunately, given the confused campus card marketplace, it is not easy for students to navigate the marketplace. Nonetheless, this is a general list of consumer tips to enable students to be as aware as they can be of the tricks and traps of these cards.

1. **Assert your right to consumer choice.** If your campus offers a campus debit card and/or financial aid disbursement card, you should not be forced

into using any of these services to access your financial aid, campus payroll, or any other campus refund you are due. If you are happy with the banking service you have, insist that the campus make an electronic transfer of the funds to your existing bank account or issue you a paper check. If you do not yet have a bank account, you may find that you can get a cheaper and safer account than the one the school has chosen. You should not have to pay the campus, or the bank or firm, extra to get access to your money.

2. **Don't get the account if you don't understand the fine print.** Banks may insert additional or surprising fees into the small print that could cost you, such as a fee for not using your account. If you decide to use a campus debit card read the fine print, don't merely click "accept." If you don't feel like reading all of the fine print, it may make sense to choose your paper check option and/or deposit it in a bank account you're comfortable with.
3. **Don't opt in to overdraft "coverage" and don't overdraw your account.** Banks and financial firms charge you a hefty overdraft or non-sufficient funds fee when you overdraw on your account. According to an FDIC study, study, 46.4 percent of young adult accountholders incurred overdraft fees, and of those, 15 percent recorded more than ten overdrafts in one year. Each fee is \$34 on average.

Banks previously would automatically enroll customers into "standard overdraft protection" plans that allowed automatic over-drafting when you had no money in your account at point-of-sale (e.g., coffee shops) or ATMs. This enabled the banks to change a high fee for each transaction over your limit. Now, rules require that banks must ask your affirmative permission before enrolling you into their plan. Do not opt-in to "standard overdraft protection." It's better to let your card be declined at point-of-sale and ATMs and avoid high fees.

Regardless of your decision to opt-in, banks are allowed to overdraft your account no matter what when you write a check or have a recurring monthly charge on an account, like with a monthly Netflix account or gym membership, so you could still be charged high overdraft fees.

If you are forced to overdraw on your account, then make only one withdrawal. If you withdraw multiple times on an overdrawn account, you could incur multiple high fees.

Return your balance to positive as soon as possible otherwise you could be charged recurring daily overdraft fees as high as \$30.

4. **Know the access you have to your money.** Students will pay more ATM fees when access to fee-free machines is limited. So if the ATM machine supporting your campus debit card is located in a building that is not accessible 24 hours a day and 7 days a week, you may be stuck.

Additionally, there may be only one fee-free machine to service the entire population of students, so plan ahead – when disbursements arrive, you can anticipate a very long line that could quickly deplete the machine of money.

The worst case scenario is that the machine breaks down or is inaccessible when you need to access your funds, in which case you will have to use a “foreign” ATM. That will result you paying a foreign ATM fee to your own campus provider as well as a “surcharge” to the ATM owner, totaling as much as \$5 for that withdrawal. Asking for cash back on a purchase at the grocery store can help avoid these types of fees (although a cash-back transaction may incur a “PIN-debit fee” of 50 cents or so).

5. **Know the minimum and maximum amount you can withdraw from an ATM.** Some campus finan-

cial aid disbursement cards require the student to withdraw no less than \$50 at a time. Most campus cards prohibit you from withdrawing more than \$500 in a day. Asking for cash back on a purchase at the grocery store can help provide more options.

6. **Take care when adding money to your account.** Many financial aid disbursement cards offered on campus enable student consumers to load additional funds onto the card through a separate card you can buy at a retail store. These cards cost money, so be sure to take care in adding funds to your account.

7. **Complain loudly and often on campus if you encounter a problem.** The campus administration has negotiated a contract with a campus debit card provider and has the ultimate authority to re-negotiate that contract. Students at various campuses across the country have been successful at pushing their university to get rid of particularly outrageous fees like the 50 cent PIN-debit transaction fee.

You should visit your campus business office and your student government to log a complaint. Finally, if your campus has a student newspaper, you can write a letter to the editor about your complaint.

8. **Complain loudly and often to off-campus watchdogs if you encounter a problem.** The US Department of Education’s Office of Inspector General collects complaints from anyone suspecting fraud, waste or abuse involving federal student aid funds. You can reach them over the phone at 1-800-MIS-USED or file a complaint electronically in English or Spanish at www2.ed.gov/about/offices/list/oig/hotline.html.

The Consumer Financial Protection Bureau has a variety of ways to take your formal complaint online or over the phone, to answer your question or hear your story. See consumerfinance.gov.

Key Recommendations for Policymakers

To ensure that students are protected within a campus debit card program, regulators can make the following changes to federal rules that define the market:

1. **Eliminate fees for financial aid disbursement cards.** Policymakers should update federal regulations that govern disbursement of federal student aid to ensure high banking fees are not charged to the students who can afford them the least.
2. **Increase transparency and tracking.** Policymakers should collect more data on debit card practices on campus to better understand the market. Policymakers should extend important transparency provisions for credit card contractual relationships included in the Credit CARD Act and the Higher Education Act to any debit card contracts on campus.
3. **Enforce the laws and the rules.** The Consumer Financial Protection Bureau, other bank regulators and the Department of Education should, as appropriate, supervise key players in the marketplace and use enforcement action if needed to make sure firms comply with the laws and that students receive every protection afforded to them under the higher education and financial services laws.
2. The Department of Education should enforce current regulations requiring institutions to provide a copy of all contracts with third-party servicers, including modified and renewed contracts. These contracts should always be publicly available in an easily accessible database.
3. The Department should enforce current rules that ban any credit function, such as overdrafts, on bank accounts when a school opens the bank account on behalf of the student, establishes a process the student must follow to open a bank account or similarly assists the student or parent in opening a bank account.
4. The Department of Education should update its regulations concerning the disbursement of federal student aid in the following ways:
 - Create rules that ensure students have a clear and unbiased choice about where to bank and which financial aid disbursement method to use.
 - Ban all fees on financial aid dollars, whether disbursed to a prepaid card or bank account in partnership with the school, including decline, overdraft, non-sufficient funds, transfer fees, overdrawn fees, ATM fees, swipe fees, and inactivity fees.
 - Ban card replacement fees when the card has never been activated and provide for wear and tear. Because these debit cards look like credit cards solicitations, the fee should only be assessed if the card has been activated and lost.
 - Require all banks and financial firms that accept or disburse federal student aid to make their affinity agreements with schools public.
 - Ban co-branding of materials, including debit cards, websites and mailers unless a student opts into the service.
 - ATMs associated with student disbursements should be required to provide cash in transac-

Specific Recommendations for the Department of Education

1. The Department of Education should do more to collect information about the marketplace through annual compliance audits already required by third-party servicers. Possible data points to collect include the financial impact to students, such as a breakdown of the average annual costs incurred by students based on debit cards activated at each campus, refreshed every year.

tions of \$20. Some cards now can only make withdrawals of \$50 or more.

Regulators should require that campuses provide an adequate number of regularly-replenished on-campus ATMs for financial aid disbursement. ATM deployment measurements should be based on need during peak-use times, such as the beginning of a semester or quarter. In addition, colleges should also explicitly prohibit imposition of point-of-sale fees for safer, PIN-based transactions. Require that under circumstances in which provider ATMs run out of money or break down, students should be credited the cost of using foreign ATMs.

5. The Department of Education should create and enforce additional guidance letters to schools that better articulate the federal financial aid requirements set by law in an ever-changing banking landscape. The Department should also advocate that schools negotiate out fees from their contracts and possibly reward those that do.
6. The Department should more aggressively pursue and collect student complaints related to debit cards and financial aid disbursement, investigate potential violations and use their current authority to fine banks and financial firms participating in third-party servicing contracts that are violating the rules.

Specific Recommendations for the Consumer Financial Protection Bureau (CFPB)

1. The CFPB should enforce the EFTA rule that prohibits any person from being required to have an account at a particular institution as a condition of receipt of a government benefit. CFPB should make it clear that federal or state financial aid is a benefit under EFTA. The CFPB should issue new

rules or guidance to make clear that government agencies, schools and others must offer the clear, unbiased choice of direct deposit to the consumer's own account first, before offering a prepaid or debit card option.

2. The CFPB should enforce the EFTA limitations against sending an unsolicited access device such as a prepaid or debit card. The CFPB should issue new rules or guidance to emphasize that materials accompanying the card must explain that the card need not be activated, that there are alternative means of accessing the student's funds, and that the card can be disposed of.
3. CFPB and other bank regulators should use supervisory and enforcement actions to ensure students are getting a fair deal. CFPB should conduct additional research to better understand and define the marketplace.
4. The CFPB should extend rights to prepaid card holders by making all prepaid cards subject to the additional fraud protections of the Electronic Funds Transfer Act (and its Regulation E) which now applies to debit cards linked to bank accounts.
5. The CFPB should then improve those fraud protections under EFTA and expand the additional consumer protections that apply to credit cards under the Truth In Lending Act to all cards and similar devices.
6. The CFPB should issue rules to prohibit overdraft fees on prepaid cards, debit cards and ATM transactions, to limit overdraft fees and to give consumers clear choices of less costly methods of providing overdraft protection for checks and electronic transactions.

Appendix 1: Common Fees On Campus Cards

Overdraft/insufficient fees: Overdraft fees hit traditional checking accounts and their associated debit cards, but do not generally apply to prepaid cards. Studies show that most overdraft fees are paid by those who can least afford to pay them—lower income consumers and young consumers, such as students. Studies show that overdraft fees averaging over \$27 and as much as \$34 are imposed on debit and ATM card transactions that average only around half that amount.⁷² In response, Federal Reserve rules⁷³ that took effect on 1 July 2010 are intended to reduce the number of consumers in so-called “standard overdraft protection” overdraft plans.

The new rules require an opt-in before consumers are enrolled in “standard overdraft protection” where “courtesy” fees averaging over \$34 each can then be imposed on debit or ATM transactions or certain one-time electronic debits. Areas for inquiry are to evaluate marketing schemes for how financial institutions con-

vince students to opt-in and to determine how many students are “opting in” to standard overdraft protections, which covers most of the campus cards offered by banks.⁷⁴

An early poll in 2010 suggested that most of the one-third of eligible consumers that opted-in did so based on information that was deceptive.⁷⁵ The CFPB has announced a further inquiry into overdraft fees, including into reports that “opt-in” percentages vary widely, suggesting more aggressive marketing by some banks.⁷⁶

By continuing to use aggressive marketing, banks could preserve significant fee income, as relatively few consumers -- but a disproportionately large number of young people-- are reported to pay substantial overdraft fees. According to an FDIC study, study, 46.4 percent of young adult accountholders incurred overdraft fees, and of those, 15 percent recorded more than ten overdrafts in one year.⁷⁷

Table 5: Young People Pay Most Debit Overdraft Fees

Quantity of NSF fees paid by age group					
Age group	Zero	1 to 4	5 to 9	10 to 19	20+
Under 18	78.10%	12.10%	4.00%	3.00%	2.70%
18-25	53.60%	21.50%	10.30%	7.90%	6.80%
26-61	68.10%	13.70%	6.10%	5.20%	6.90%
Over 62	87.80%	7.00%	2.20%	1.50%	1.50%

Source: FDIC Study of Bank Overdraft Programs, November 2008

Moreover those consumers who do opt-in to “standard” overdraft plans will still face other problems. For example, they will face substantial recurring overdraft fees. Those fees are high for each occurrence, and banks have made processing daily transactions from largest to smallest a standard practice, which results in the most overdraft fees possible.⁷⁸ Finally, the new overdraft rules prohibit fees for when a bank covers an overdraft, not fees for when a bank declines to cover an overdraft.⁷⁹

As a result, even with the new rules, students may face significant overdraft fees when they use debit/ID card accounts. Colleges and universities need to continue to focus on limiting unfair fees in their negotiations over card contracts.

Insufficient funds fee: Related to overdraft fees, this fee applies when a student attempts to use their card for a purchase but does not have enough money in the account. The transaction is declined, but the bank will charge a non-sufficient funds charge. Sallie Mae’s No Fee Student Checking account charges a \$19 fee.⁸⁰

Continuing or recurring overdraft fees: These fees apply to traditional checking accounts, not prepaid cards. On top of an initial overdraft fee banks may charge additional fees for accounts that have negative balances. These fees are assessed after an account has a negative balance for each day or period (e.g., 5-10 days) an account remains overdrawn. At TCF Bank,⁸¹ which partners with schools including the University of Minnesota, a \$28 daily continuing overdraft fee is assessed for each day an account is overdrawn, for up to 14 days.⁸²

Reloading fees: Prepaid cards generally cannot be overdrawn, but students can pay large fees for reloading their accounts at ATMs or through purchase of “money paks” (although some other types of electronic reloading may be free with certain cards). For example, University of North Florida partners with American Express for a reloadable prepaid card connected to a

student ID. Students can add more money to the card through a bank account or with cash. If using cash, a student must purchase a Green Dot MoneyPak at a retail store, then link the MoneyPak with their card. This reloading process costs up to \$4.95.⁸³ Students at Northwest Florida State College can re-load their Acceleraid prepaid card online or over the phone with a credit/debit card for \$2.50.⁸⁴

While reload fees are more prevalent on prepaid cards, reload fees exist on traditional debit accounts as well. Higher One allows students to add money to their account with MoneyPak, which costs \$4.95.⁸⁵

Transaction fees: Transaction fees can be applicable to any type of debit card. The fee is a per transaction charge. For example, if the student has a card with a MasterCard logo but pays by PIN (selects “debit” not “credit” at point-of-sale) rather than using a signature, then he or she would be charged this fee. PIN-transaction fees are a form of “stick” fee to punish behavior—PIN purchases—that banks want to discourage. Banks want students to sign for purchases when they make debit card purchases because the banks make more money from merchants (higher interchange fees) when a debit card transaction is processed with a signature. One example of a PIN fee is on Higher One’s OneAccount, where students are assessed a \$0.50 fee for every PIN-debit purchase made with their debit card.⁸⁶ The PIN fee has proven to be controversial at schools including Portland State University and Southern Oregon University where students protested and successfully removed the fee.

Abandoned account fees: Abandoned account fees may be charged to traditional bank accounts or prepaid cards. These fees are charged after the card has not been used for a certain period of time. Higher One charges students \$19/month after 9 months of inactivity and will soon charge \$10/month after 6 months, which is well shorter than an academic year.⁸⁷ An abandoned account could eventually be closed, resulting in more fees.

Account closure fees: These fees can apply to all card types. These fees are assessed when an account is closed. For example, after 18 months of inactivity on the Buff OneCard at University of Colorado Boulder the bank charges the account \$25, and any leftover funds revert to the institution, not the student.⁸⁸

Check fees: These fees can apply to all card types. Many students need to pay for rent or other bills using a check. While some banks offer free checks to accompany the account, others do not.

Refund fees: These fees can apply to all card types. These fees are assessed when money has to be returned from the account. For example, if a parent tries to load money onto a card but does not have sufficient funds, the transaction is canceled, potentially imposing a non-sufficient funds charge on the account while the student's debit card is also charged with a refund fee. Financial firm Heartland assesses a \$10 refund fee in this situation.⁸⁹

Replacement card fee: These fees can apply to all card types. Federal law prohibits charging for (the first) pre-paid card which stores federal financial aid, but most card programs charge for replacement cards ranging in fees from \$5-\$20. Higher One charges a \$20 card replacement fee.⁹⁰ Even after years of wear and tear, or if the student believed the card was a credit card solicitation and never activated the card, students are responsible for the charge.

Balance inquiry fee: This fee can apply to all card types. Students are assessed the fee when they check their balance at an ATM. For example, Heartland's pre-paid Acceluraid charges \$.60 per inquiry.⁹¹ This does not include charges potentially assessed by the ATM owner. Heartland also charges balance inquiry fees for initiated on mobile devices too.

Dispute fees: At least one campus card contract, the Northwest Florida State College Discover® Cardholder Agreement with Heartland, lists a \$30 "dispute fee" in its fee schedule. There is no additional explanation.⁹²

Transfer or wire fees: These fees are charged when a student transfers money from their account to another, also called a wire fee. Higher One charges a \$25 transfer fee. Some students can be hit with this fee when they want their money in their own account, but miss the initial prompt to have the funds transferred because of misleading marketing.

These Fees Are Unfair To Students: Supporters of the fee structures on these campus card products insist fees are a natural consequence of electronic banking. However, students can easily find checking accounts available to the general public in the marketplace that are virtually free to use. For example, Bank of America offers an eBanking account that is free to use for customers who only use online banking; the product blocks overdrafts on everyday non-recurring purchases.⁹³

Appendix 2: Consumer Protections Vary Among Credit, Debit and Prepaid Cards

If one were to develop a hierarchy of payment card protections for consumers, it might look like this:

- **Credit cards:** Gold standard, including fraud loss cap of \$50, dispute resolution protection, and other consumer protections provided under the federal Truth in Lending Act and its Truth in Billing provisions.
- **ATM/Debit cards linked to bank accounts:** Silver standard, with consumer protections under the Electronic Funds Transfer Act. EFTA uses a shared fraud liability standard which includes three tiers of consumer liability (from \$50 for notification of fraud within two days up to a possible loss of all money in the account and any linked accounts) based on when complaints are filed. Individual debit accounts carry FDIC insurance of up to \$250,000. Other protections are by contractual relationship only.
- **Gift cards and payroll cards:** Covered by various bronze standards; some EFTA-like protections are provided to consumers in each case and FDIC insurance in some cases.
- **General Purpose Prepaid Cards:** These cards are the also-rans or losers, with no real consumer protections by federal law, only as promised by contract. Some minimal protections for consumers with cards disbursing financial aid are provided under Department of Education rules. Some cards can carry individual insurance.

For campus cards, then, consumer protections may vary depending on the card type used on campus. Federal rules for financial aid disbursement provide very little guidance on consumer protection in this area, allowing financial aid to be placed on a variety of financial products, placing student aid at risk.

Prepaid cards, which have proliferated on college campuses, are a newer type of debit card that differs from other types of cards, like gift cards and debit cards linked to traditional bank accounts. Under current law, prepaid cards have no guaranteed protections afforded to them. For example, bank account-linked debit cards have mandatory protections against fraud and theft and errors, whereas prepaid cards have none.⁹⁴ With gift cards, there are still no fraud, theft or error protections but there are certain protections against the dormancy, inactivity or service fees consumers can incur and protections against account closures.⁹⁵ Neither of these card types, nor emerging mobile and internet payment mechanisms, have the same statutory protections as credit cards.⁹⁶ Taken together, prepaid cards extend the least protections to consumers.

Cards not linked to financial aid may not have even the few protections the financial aid rules do provide, such as the requirement that funds for financial aid prepaid cards are kept in an FDIC-insured account. These cards could be covered under reloadable stored value card rules, which provide fewer protections. One consumer expert informally told the authors that the issue of prepaid cards and consumer protection is simply “a mess.”⁹⁷

Table 6: FDIC's Comparison of Credit, Debit and Prepaid Card Rights

	Credit Cards	Debit Cards	Prepaid Cards
What It Is	A credit card is a loan.	A debit card is linked to your bank account and is issued by your bank.	There are a variety of prepaid cards, including "general purpose reloadable" (GPR) cards which carry a brand of a card network (such as Visa or MasterCard) and can be used where that brand is accepted. Payroll cards and gift cards are two other types of prepaid cards.
How It Works	When you borrow funds using a credit card, you must pay the money back. You may also have to pay interest if not paid in full. Credit cards may be especially useful if you want to pay for things when your bank account balance is low or to take advantage of a no-interest introductory period.	When you use a debit card, the money spent is taken directly from your bank account. Debit cards may be especially useful for small and routine purchases, but they are considered less beneficial than credit cards for major purchases or buying items online because of the more limited protections in cases of unauthorized transactions or disputes.	Prepaid cards allow consumers to spend only the money deposited onto them. Most GPR cards may be used to pay for purchases and access cash at ATMs.
Consumer Protections Available			
Liability for Unauthorized Transactions	Your liability for losses is limited to a maximum of \$50 if your credit card is lost or stolen, although industry practices may further limit your losses.	The maximum liability is \$50 if you notify the bank within two business days after discovering an unauthorized transaction. But if you notify your bank after those first two days, you could lose up to \$500, or perhaps much more.	General purpose reloadable cards have no protections to limit your liability under federal law.
Disclosures	Credit card solicitations must disclose certain information, including the annual percentage rate (APR), variable rate, penalty rate, fees, and other transaction charges.	Banks must disclose any fees associated with using the debit card as well as its error resolution process.	General purpose reloadable cards do not have any disclosure requirements.
Periodic Statements	Credit card issuers must provide a periodic statement for each billing cycle where the account balance is \$1 or more at the end of that cycle or where interest has been charged.	Banks must provide a statement for each monthly cycle in which a transaction has occurred. If there have been no transactions, then a statement must be sent quarterly.	GPR cards do not have periodic statement requirements under federal law.
Change in Terms	Credit card issuers must provide 45 days notice before making significant changes to the account, such as the interest rate or fees charged.	Banks must provide 21 days notice before making changes to fees charged or the liability limits for unauthorized transactions.	GPR cards have no requirements under federal law.
Interest Rate and Fee Limits	Generally, credit card issuers cannot increase the annual percentage rate (APR) or fees within the first year of account opening (although there are some exceptions to this rule). Card issuers must also reevaluate any interest rate increase every 6 months.	There are no specific requirements related to debit cards.	GPR cards have certain restrictions on dormancy fees charged.

Source: FDIC FACT SHEET AVAILABLE AT <http://www.fdic.gov/consumers/consumer/information/ncpw/cardchart.html>

The question of which consumer protections apply can be even more complicated, since some cards combine two separate debit systems on one card. The University of Memphis card allows students to have funds in an on-campus closed-loop prepaid card while also allowing financial aid to be disbursed to a separate debit system which may or may-not be open-loop:

"Excess funds from financial aid/scholarships can also be deposited to your Tiger Funds account... Tiger Funds are maintained separately from Dining Dollars, meal plan accounts

and DB Dollars, which are also accessed by your Campus Card."⁹⁸

Do the Benefits Provided Outweigh the Lack of Consumer Protections? Card issuers claim other benefits for students, regardless of whether the card is used for financial aid, which may or may not be significant. For example, parents may be able to add money to the card account more easily than they could transfer funds to their child's regular bank account, and the specialized webpage portal to the account may have analytic features helpful for students.⁹⁹

Endnotes

- 1 See Saunders, Lauren, "Unemployment Compensation Prepaid Cards: How States Can Deal Workers A Winning Hand by Discarding Junk Fees," 10 May 2011, National Consumer Law Center, available at <http://www.nclc.org/issues/unemployment-compensation-prepaid-cards.html> (last visited 14 May 2012)
- 2 See FDIC Model Safe Accounts Pilot, released 25 April 2012, summarizing this work, available at <http://www.fdic.gov/consumers/template/>
- 3 National Center for Education Statistics, US Department of Education, 2010.
- 4 The Credit CARD (Card Accountability Responsibility and Disclosure) Act (PL 11-24) was signed into law on 22 May 2009. This White House fact sheet explains its highlights, including its provisions aimed at students and young people: http://www.whitehouse.gov/the_press_office/Fact-Sheet-Reforms-to-Protect-American-Credit-Card-Holders
- 5 Mierzewski and Field, "Improving the Credit CARD Act's Benefits To Students and Other Young People: A Guide For Colleges and Policymakers," U.S. PIRG Education Fund, August 2010, available at <http://www.truthaboutcredit.org>, is a detailed analysis of the student credit reforms in that law. Also see <http://www.federalreserve.gov/newsevents/press/bcreg/20110707a.htm> (last visited 7 April 2012).
- 6 The schools in these charts are the largest as self-reported to the U.S. Department of Education. Some schools may report as a combined system; in other cases, schools in a system may be listed. In some cases, if only a school within a system uses a firm or bank, the firm or bank would not be listed. The database used for all three charts is available at IPEDS data center: <http://nces.ed.gov/ipeds/>
- 7 Functionally, these prepaid cards work the same way as a variety of other closed-loop stored value cards, including mass-transit cards and mall and merchant gift cards. In some examples, the money is stored on the card itself.
- 8 A variant is a single use declining balance prepaid card, similar to a gift card, but increasingly, most of these products can be reloaded.
- 9 Conversely, funds in prepaid cards are often held in pooled accounts. For the regulations applying to student loan disbursements, see US Department of Education. *Disbursing FSA Funds, Chapter 1*. <http://ifap.ed.gov/fsahandbook/attachments/1112FSAHdbkVol4Ch1.pdf>
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- 14 Chu, Kathy "College debit-ID card deals draw scrutiny." USA Today, March 21, 2008. http://www.usatoday.com/money/industries/banking/2008-03-16-cover-college-debit_N.htm
- 15 "Florida State University sets the bar for what campus card bank partnerships can achieve." CR80 News. Spring 2010, pp. 18-19. http://www.regardingid.com/images/cr80news_spring10_web.pdf (Case study explains that financial aid refund debit card/ID card at FSU resulted in 43,000 accounts out of 50,000 active cards in 2009 with a total monthly balance of \$34 million. Counting the ancillary accounts students opened, the total monthly balance was \$50 million.)
- 16 Securities and Exchange Commission. *Higher One Holdings, Inc. Form 10-K EX-10.23*, filed February 15th, 2012. Deposit processing service agreement with Wright Express Financial Services Corporation. <http://www.sec.gov/Archives/edgar/data/1486800/000148680012000015/ex1023.htm>
- 17 American Express, uniquely, offers Student IDs linked to prepaid card products, but not student aid functions.
- 18 US Department of Education. "Disbursing FSA Funds Chapter 1." September, 2011. <http://ifap.ed.gov/fsahandbook/attachments/1112FSAHdbkVol4Ch1.pdf>
- 19 A school may also decide not to apply the aid to institutional fees and instead directly disburse the entire balance to the student or family.
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- 26 Securities and Exchange Commission. *Higher One Holdings, Inc. Form 10-k*. <http://www.sec.gov/Archives/edgar/data/1486800/000148680012000015/one10k2011.htm#selectedfinancialdata>
- 27 Ibid.
- 28 Using Financial Aid Refunds. What Are Banking Options Costing College Students? Bretton Woods, Inc.
- 29 Hunsberger, Brent, "Debit or credit? Higher One's 'noodly' fees irk college students," *The Oregonian*, 4 September 2010, available at http://blog.oregonlive.com/finance/2010/09/higher_one_debit_card_fees_at.html
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- 53 University of West Florida. *Financial Services Presentation, slide 8*. <http://uwf.edu/family/communication/Financial%20Services%20Presentation%202010.pdf>
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sent under most circumstances. Institutions are certainly allowed to contract with an agent to perform various functions—including the issuance or production of student ID cards—and such agents are allowed non-consensual access to information that is needed to carry out their contractual responsibilities. To the extent that the information in such contractors' possession is publicly available to them, they may also use it for non-contractual purposes of their own, since they could have obtained the data even without the contract. **But for students who have "opted out of directory," cross selling or bundling of additional services by a bank or financial firm would be a violation of FERPA because the entity in question would not have been able to get that information otherwise.**

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64 The Denver Post. *New College Debit-Card Program May Have Student Shouldering the Burden*. http://www.denverpost.com/business/ci_16474742

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68 See FDIC Model Safe Accounts Pilot, released 25 April 2012, summarizing this work, available at <http://www.fdic.gov/consumers/template/>

69 That is, in the order received.

70 Following issuance of the 2010 overdraft rules by the Federal Reserve Board and other regulators, the FDIC imposed a strong guidance interpreting the rules to help accountholders avoid overdraft fees at banks it supervises, but the Federal Reserve and the Office of the Comptroller of the Currency did not. Since 21 July 2011, the CFPB has taken over all consumer rulemaking authority as well as supervision of the nation's largest banks. Supervision for banks with deposits less than \$10 billion remains with these other regulators. See also news release, "Consumer Financial Protection Bureau launches inquiry into overdraft practices," 22 Feb 2012, <http://www.consumerfinance.gov/pressreleases/consumer-financial-protection-bureau-launches-inquiry-into-overdraft-practices/>

71 Signature based debit transactions are more likely to be fraudulent than PIN based ones, because the thief doesn't need to know

the PIN to make the purchase. And while banks tout contractual protections against fraud for signature based transactions, these protections are not as secure as those required by law in the parallel credit card situation. A card that can only be used with a PIN has inherently less risk, although it can be used in fewer locations. However, banks earn larger interchange fees from merchants on signature transactions, hence the fee.

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75 Center for Responsible Lending. *Banks Collect Overdraft Opt-ins Through Misleading Marketing*. April 26th, 2011. <http://www.responsiblelending.org/overdraft-loans/policy-legislation/regulators/banks-misleading-marketing.html>

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EXHIBIT B



Email Address: Password:

W1-m0qqrhc jdkvUrp vdv0bhzvMdyb. Login with your device

Important User Information: Terms and Conditions and Related Disclosures

The Bancorp Bank

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask you for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

The terms and conditions set forth below contain important information regarding your relationship with Higher One and its service partners. This information will also explain the products and services that you have requested and the rules that will apply to your use of these products and services.

Review this information carefully and print and retain a copy of these terms and conditions for your future reference.

Click on the link below to access important documents.

[E-Sign Disclosure and Consent](#)

[Higher One Web Services User Agreement](#)

[Account Terms and Conditions and Related Account Disclosures](#)

[Online Bill Payment Terms and Conditions](#)

[Important Information About Substitute Checks \(Check 21 Act\)](#)

[EasyDeposit check capture Terms and Conditions](#)

[EasyDeposit Mobile check capture Terms and Conditions](#)

E-Sign Disclosure and Consent

This E-Sign Disclosure and Consent ("Disclosure"), applies to all Communications for those products and services offered through the Higher One website that are not otherwise governed by the terms and conditions of an electronic disclosure and consent.

The words "we," "us," and "our" refer to the Bancorp Bank ("Bank") and Higher One, Inc., ("Higher One") with whom you have your Account. As used in this Disclosure, "Account" means the account you have with us. "Communication" means any customer agreements or amendments thereto, disclosures, notices, responses to claims, transaction history, privacy policies and all other information related to the product or service, including but not limited to information that we are required by law to provide to you in writing.

1. Scope of Communications to Be Provided in Electronic Form:

When you use a product or service to which this Disclosure applies, you agree that we may provide you with any Communications in electronic format and that we may discontinue sending paper Communications to you, unless and until you withdraw your consent as described below. Your consent to receive electronic communications and transactions includes, but is not limited to:

- 1. All legal and regulatory disclosures and communications associated with the product or service available through the Higher One website for your Account.
- 2. Notices or disclosures about a change in the terms of your Account or associated payment feature and responses to claims.
- 3. Privacy policies and notices.

2. Method of Providing Communications to You in Electronic Form:

All Communications that we provide to you in electronic form will be provided either (1) via email, (2) by access to a website that we will designate in an email notice we send to you at the time the information is available, or (3) to the extent permissible by law, by access to a website that we will generally designate in advance for such purpose.

3. How to Withdraw Consent:

You may withdraw your consent to receive Communications in electronic form by contacting us at 1-866-369-7452. At our option, we may treat your provision of an invalid email address, or the subsequent malfunction of a previously valid email address, as a withdrawal of your consent to receive electronic Communications. We will not impose any fee to process the withdrawal of your consent to receive electronic Communications; however your access and use of the Higher One website and Account will be terminated. Any withdrawal of your consent to receive electronic Communications will be effective only after we have a reasonable period of time to process your withdrawal.

4. How to Update Your Records:

It is your responsibility to provide us with true, accurate and complete email address, contact and other information related to this Disclosure and your Accounts and to maintain and update promptly any changes in this information. You can update information (such as your email address) through the Higher One website.

5. Hardware and Software Requirements:

In order to access, view and retain electronic Communications that we make available to you, you must have:

- an Internet browser that supports 128 bit encryption;
- sufficient electronic storage capacity on your computer's hard drive or other data storage unit;
- an email account with an Internet service provider and email software in order to participate in our electronic Communications programs;
- a personal computer (for PC's: Pentium 120MHz or higher; for Macintosh, Power Mac 9500, Power PC 604 processor 120 MHz Base or higher), operating system and telecommunications connections to the Internet capable of receiving, accessing, displaying and either printing or storing Communications received from us in electronic form via a plain text-formatted email or by access to our website using one of the browsers specified below.

Higher One recommends that you use the Higher One website with a supported browser. The following is a list of browsers supported by Higher One:

Internet Explorer (on Windows)	Versions 7.0 and 8.0
Firefox (on Windows)	Version 3.6
Safari (on OS X)	Newest Release Only

6. Requesting Paper Copies:

We will not send you a paper copy of any Communication, unless you request it or we otherwise deem it appropriate to do so. You can obtain a paper copy of an electronic Communication by printing it yourself or by requesting that we mail you a paper copy, provided that such request is made within a reasonable time after we first provided the electronic Communication to you. To request a paper copy, contact us by logging into the Higher One website. We may charge you a reasonable service charge for the delivery of paper copies of any Communication provided to you electronically pursuant to this authorization. We reserve the right, but assume no obligation, to provide a paper (instead of electronic) copy of any Communication that you have authorized us to provide electronically.

7. Communications In Writing:

All Communications in either electronic or paper format from us to you will be considered "in writing." You should print or download for your records a copy of this Disclosure and any other Communication that is important to you.

8. Federal Law:

You acknowledge and agree that your consent to electronic Communications is being provided in connection with a transaction affecting interstate commerce that is subject to the federal Electronic Signatures in Global and National Commerce Act, and that you and we both intend that the Act apply to the fullest extent possible to validate our ability to conduct business with you by electronic means.

9. Termination/Changes:

We reserve the right, in our sole discretion, to discontinue the provision of your electronic Communications, or to terminate or change the terms and conditions on which we provide electronic Communications. We will provide you with notice of any such termination or change as required by law.

10. Consent:

By selecting "I Agree" you hereby give your affirmative consent to provide electronic Communications to you as described herein. You further agree that your computer satisfies the hardware and software requirements specified above and that you have provided us with a current email address at which we may send electronic Communications to you.

The featured words and symbols used to identify the source of goods may be the trademarks of their respective owners.

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Higher One Web Services User Agreement

This Web Services User Agreement ("Agreement") discusses important rules related to your use of the Higher One website and any related products and services (collectively the "Service"). This Agreement affects your rights and you should read it carefully, and print this Agreement or copy it to your computer's hard drive for your reference. In this Agreement, "you" or "your" means any person using the Service ("Users"). Unless otherwise stated, "Higher One," "we" or "our" will refer collectively to Higher One, Inc. and its subsidiaries, affiliates, directors, officers, employees, agents, service partners, and contractors.

By clicking "I Agree," "I Accept", or by submitting any information through the Service you agree to the Terms and Conditions of this Agreement and any documents incorporated by reference. You further agree that this Agreement forms a legally binding agreement between you and Higher One, and that this Agreement constitutes "a writing signed by You" under any applicable law or regulation. Any rights not expressly granted herein are reserved by Higher One. This Agreement is subject to change by Higher One without prior notice (unless prior notice is required by law), by posting of the revised Agreement on the Higher One website. Descriptions of material amendments to this Agreement will be posted in advance on the Higher One website. You may review the current Agreement at any time at our Disclosures page.

1. The Relationship between You and Higher One:

By registering for the Service, you appoint Higher One as your agent to conduct transactions on your behalf in accordance with your instructions, subject to the terms and restrictions of this Agreement. You acknowledge that (i) Higher One is not a bank and the Service is a transaction processing service rather than a banking service; and (ii) Higher One is not acting as a trustee, fiduciary or escrow with respect to your funds, but is acting only as an agent and custodian. If you open a deposit account through the Service, you will be subject to the Account Terms and Conditions which will govern the terms of your deposit account.

By initiating any transactions through the Service, you appoint Higher One as your agent to obtain the funds on your behalf per your instructions and to transfer the funds to the recipient that you designate, subject to the terms and restrictions of this Agreement. When you send a payment, until that payment is received by the recipient (which may occur instantly), you remain the owner of those funds and Higher One may hold those funds as your agent, but you will not be able to retrieve those funds or send the funds to any other recipient unless the initial transaction is canceled in accordance with our policies and rules.

2. User Responsibilities:

Eligibility:

In order to use the Service, you must register to receive a valid login. To open an Account through the Service, you may have to be affiliated with an institution of higher education currently under contract with Higher One. Additionally, if you information

or otherwise that an individual or entity is engaged in activity that violates the rights of others, is your registration or actions indicate an unacceptable level of risk, as determined at our sole discretion, you will not be eligible to use the Service. You agree to use the Service for personal use only.

No Multiple Accounts:

Should you register for more than one access to the Service, Higher One reserves the right to terminate your access and will restrict you from the system going forward.

Registration Information:

You agree to provide true, accurate and complete registration information and to maintain and promptly update your information as necessary. You agree not to impersonate any other person or use a name that you are not authorized to use. If any information you provide is untrue, inaccurate, not current, or incomplete, without limiting other remedies, Higher One has the right to terminate your use of the Service and Higher One, its agents, suppliers, and subcontractors have the right to recover from you any costs or losses incurred as a direct or indirect result of the inaccurate or incomplete information. You authorize Higher One, directly or through third parties, to make any inquiries we consider necessary to validate your registration. This may include ordering a credit report, performing other credit checks or verifying the information you provide against third party databases.

Prohibited Transactions:

You agree that you will not use any Service to initiate transactions related to illegal products or services, including but not limited to materials that infringe the intellectual property rights of third parties. You will not use the Service, the Higher One website or any of the services offered therein for any unlawful or fraudulent activity. If Higher One has reason to believe that you may be engaging in or have engaged in fraudulent, unlawful, or improper activity, including without limitation any violation of any terms and conditions of this Agreement, your access to the Service may be suspended or terminated. You will cooperate fully with Higher One to investigate any suspected unlawful, fraudulent or improper activity. You agree not to impersonate a Higher One User or a Higher One representative, or to request that a Higher One customer provide you with their password or other information to access their account.

Electronic Communications:

To the fullest extent permitted by applicable law, this Agreement and any other agreements, notices or other communications regarding your account and/or your use of the Service ("Communications"), may be provided to you electronically and you agree to receive all Communications from Higher One in electronic form. Electronic Communications may be posted on pages within the Higher One website and/or delivered to your email address. You may print a copy of any Communications and retain it for your records. All Communications in either electronic or paper format will be considered to be in "writing," and to have been received no later than five (5) business days after posting or dissemination, whether or not you have received or retrieved the Communication. Higher One reserves the right but assumes no obligation to provide Communications in paper format. Your consent to receive Communications electronically is valid until you revoke your consent by notifying Higher One of your decision to do so by contacting us in writing. If you revoke your consent to receive Communications electronically, Higher One may terminate your right to use the Service or charge you monthly fees.

Correct Information:

You agree and warrant that you have access to the Internet and to a current functional email address for personal use. Although we will take reasonable steps to contact you based on information that you have provided us, Higher One will not be liable for any undelivered email communications or any costs you incur for maintaining Internet access and an email account. You have an AFFIRMATIVE OBLIGATION to provide Higher One with correct information, including an operational email address, and to notify Higher One promptly as to any changes or cancellations of any information, such as email addresses you provide to Higher One. Failure to provide Higher One with current information, including a working and functional email address for personal use, and/or failure to update Higher One about a change or cancellation of any of your information, or if Higher One has reason to believe that either has occurred, may result in suspension of your access to the Service or other measures deemed appropriate by Higher One. Higher One reserves the right to take measures to ensure the integrity of its database, and expects that you, as a user, will cooperate and keep your contact and personal information current. If you are affiliated with a college or university or other program sponsoring eMail, you agree that Higher One may share your contact information, such as email and mailing address, with that entity.

Passwords:

You may not reveal your account password(s) to anyone else, nor may you use anyone else's password. Higher One is not responsible for losses incurred by Users as the result of their misuse of passwords.

Hacking:

If you use, or attempt to use the Service for purposes other than its intended purposes, including but not limited to tampering, hacking, modifying or otherwise compromising the security or functionality of the Service, your account will be terminated and you will be subject to damages and other penalties, including criminal prosecution where available.

Assignment:

You may not transfer any rights or obligations you may have under this Agreement without the prior written consent of Higher One. At any time, Higher One reserves the right to transfer this Agreement or any right or obligation under this Agreement without your consent.

Transfer of Account Balance to Higher One: Other Transfer:

If you hold an Account or receive any other Services that may involve a federally-insured financial institution, you may appoint Higher One as your agent, and authorize Higher One, after reasonable notice has been provided to you, and without any further consent on your part to (i) withdraw the full balance of your Account deposits from the FDIC-insured depository institution then holding such deposit accounts by having such depository institution transfer the full balance to Higher One, as your agent and (ii) place such balance into another deposit account with another FDIC-insured depository institution. You further authorize Higher One, as your agent, after reasonable notice has been provided to you and without any further consent, to direct the FDIC-insured depository institution then holding your deposit account to transfer your deposit account and all of such depository institution's related obligations and responsibilities to an assuming FDIC-insured depository institution designated by Higher One.

Indemnification:

You agree to indemnify and hold Higher One, its affiliates, officers, directors and employees, agents and contractors harmless from any claim, action, demand, loss, or damages (including attorneys' fees) made or incurred by any third party arising out of or relating to your use of the Service.

Security Interest; Higher One's Right to Setoff:

To secure your performance of this Agreement, you grant to Higher One a lien on and security interest in any account opened or registered through the Service. In addition, you acknowledge that Higher One may setoff against any accounts you own for any obligation you owe Higher One at any time and for any reason allowed by law. Higher One may consider this Agreement as your consent to Higher One's asserting its security interest or exercising its right of setoff should any law require your consent. The rights described in this section are in addition to and apart from any other rights.

Choice of Law:

This Agreement is governed by and interpreted under the laws of the State of Connecticut.

3. Rights, Obligations and Disclaimers of Higher One:

Privacy:

We take the privacy of your personal information very seriously at Higher One. Please review the Higher One [Privacy Policy](#) for more information.

Processing:

Higher One shall make reasonable efforts to ensure that requests for electronic debits and credits involving bank accounts, and check issuances are processed in a timely manner. However, a number of factors, several of which are outside of our control, will contribute to when the funds are received. We make no representations or warranties regarding the amount of time needed to complete processing, such as delays in the banking system or the U.S. or international mail service, nor shall we be liable for any actual or consequential damages arising from any claim of delay.

Closing and Restricting Access to the Service:

Higher One, at its sole discretion, reserves the right to restrict or terminate access to the Service at any time for any reason, including but not limited to a violation of this Agreement or if you open an Account and violate the [Account Terms and Conditions](#) or fail to keep your Account in good standing. For example, if you violate any applicable terms and conditions or overdraw your Account, Higher One may restrict your ability to make changes to your profile, preferences and settings. Higher One, at its sole discretion, also reserves the right to periodically retrieve and review a consumer report for any account, and reserves the right to close an account based on information obtained during this review process, or inability to properly verify the identity of the account holder. Higher One, at its sole discretion, also reserves the right to restrict your usage of the Service if required by law or if it has reason to believe that transactions are fraudulent. If your access is restricted, you will be notified by email and requested to provide information relevant to your access of the Service and/or account. Higher One will investigate the matter promptly. If the investigation is in your favor, we will remove the access restriction to the Service.

Termination:

Higher One, in its sole discretion, reserves the right to terminate this Agreement, access to its website, or access to the Service for any reason and at any time upon notice to you and payment to you of any unrestricted funds held in custody for you.

Trademarks:

Higher One's website, HIGHER ONE and all related logos, products and services described in this website are either trademarks or registered trademarks of Higher One or its licensors, and may not be copied, imitated or used, in whole or in part, without the prior written permission of Higher One. In addition, all page headers, custom graphics, button icons, and scripts are service marks, trademarks, and/or trade dress of Higher One and may not be copied, imitated, or used, in whole or in part, without the prior written permission of Higher One.

Miscellaneous Disclaimers:

- All information and content related to the Service is subject to change. Higher One does not warrant the completeness, accuracy or timeliness of the information displayed through the Service. The Service may be unavailable from time to time, at Higher One's sole discretion.
- Higher One will not have any liability in connection with any unauthorized interception or use of data relating to you or the Service; any inability by you to use or access the Service or the Higher One website for any reason; any actions or transactions by an individual that uses your user name and password with your consent or knowledge; or any cause over which Higher One does not have direct control, including problems attributable to computer hardware or software (including computer viruses), telephone or other communications, or Internet service providers.
- In no event shall Higher One be liable (A) for damages caused other than by intentional misconduct or (B) for any indirect, special, incidental, consequential or punitive damages whatsoever (including, but not limited to, damages for lost profits, disclosure of confidential information, or loss of privacy), arising out of or in any way related to your use of or inability to use the Service or the Higher One website, even if Higher One has been advised of the possibility of such damages. In no event shall Higher One be liable for any act or omission of any third party (such as, for example, any provider of telecommunications services, Internet access or computer equipment or software, or any third party website linked to through the Service) or any circumstances beyond our control (such as, for example, a fire, flood, or other natural disaster, war, riot, strike, act of civil or military authority, equipment failure, computer virus, or failure or interruption of electrical, telecommunications or other utility services).

Limit on Liability:

To the fullest extent permitted by law, we will not have any liability in connection with any unauthorized interception or use of data relating to you or the Service; any inability to use or access the Higher One website for any reason; any actions or transactions by an individual that uses your user name and password; or any cause over which we do not have direct control, including problems attributable to computer hardware or software (including computer viruses), telephone or other communications, or Internet service providers. We will not have liability of any adverse effects to your account caused by any Spam Block programs or Fire Walls that may prohibit email communications and/or account information access available through the Internet.

The Service accessible through the Higher One website is provided "as is" and with all faults, and we hereby disclaim, for ourselves and for each other entity involved in the provision of the Service, all warranties, either express or implied or statutory, including, but not limited to, any implied warranties of merchantability, of fitness for a particular purpose and of lack of viruses. In no event shall we be liable (a) for damages caused other than by our own gross negligence or intentional misconduct or (b) for indirect, special, incidental, consequential or punitive damages whatsoever (including, but not limited to, damages for lost profits, disclosure of confidential information, or loss of privacy), arising out of or in any way related to the use of or inability to use the Higher One website or any Service, even if we have been advised of the possibility of such damages. In no event shall we be liable for any act or omission of any third party (such as, for example, any provider of telecommunications services, Internet access or computer equipment or software) or any circumstances beyond our control (such as, for example, a fire, flood or other natural disaster, act of God, war, riot, strike, act of civil or military authority, equipment failure, computer virus, or failure or interruption of electrical, telecommunications or other utility services). Limitations on this disclaimer with respect to certain electronic funds transfers are stated in the [Electronic Fund Transfers Disclosure](#) set forth in the Account Disclosures.

Security Features:

Higher One strongly suggests that you use a web browser with 128-bit encryption. For more information, please visit our [Security Policy](#). However, regardless of whether you use a web browser with security features, Higher One is unable to guarantee that data transmitted is secure and/or will not be intercepted by third parties.

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Account Terms and Conditions and Related Disclosures**IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT**

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask you for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

These terms and conditions and related disclosures ("Agreement") govern the use of your checking account ("Account") issued by The Bancorp Bank. This Agreement is by and between the account holder, The Bancorp Bank ("Bank"), and Higher One, Inc. ("Higher One"). In this Agreement, the words "we", "our", or "us" mean The Bancorp Bank and Higher One, and the words "your" and "you" mean the individual account holder or such other user of the Account.

The Account is also subject to the [Higher One Web Services User Agreement](#), and any other information we may provide to you from time to time on the Higher One website. To the extent of any inconsistencies between this Agreement and any other terms or conditions provided to you, the terms of this Agreement will govern the Account.

Before using the Account review the following important Account information and related disclosures which apply to the Account:

[Account Terms and Conditions](#)

[Schedules of Fees](#)

[Funds Availability Disclosures](#)

[Electronic Fund Transfers Disclosure](#)

[Privacy Policy](#)

Account Terms and Conditions

By opening the Account you accept and agree to this Agreement and any future amendments as communicated to you by us from time to time in accordance with this Agreement.

By using the Account you agree to the terms of this Agreement and the applicable Schedule of Fees that may be imposed. You grant us the right to collect the fees, as earned, directly from your Account balance. You also agree to pay additional reasonable charges we may impose for services you request which are not contemplated by this Agreement.

DDA Sweep: Sub-Accounts

Your Account may consist of two sub-accounts. One sub-account is a demand deposit account (the "Checking Sub-Account") and the other sub-account is a savings deposit account (the "Savings Sub-Account"). These accounts are treated as a single account for purposes of certain record keeping, fees, and paying items presented against your account. The periodic statement of activity on your Account and any record of your Account at any automated teller machine, will reflect this Account as a single account, and will not reflect the sub-accounts in any way. Neither sub-account pays interest on account balances. Although we have no intentions of exercising this right, federal regulations require us to reserve the right to require at least seven (7) days written notice prior to withdrawal or transfer of any funds in the savings sub-account. You may only access your savings sub-account through transactions on your checking sub-account.

At various times during each statement cycle, should your checking sub-account balance exceed a threshold amount, all funds in the checking sub-account in excess of that amount may be transferred into the savings sub-account. As funds in the savings sub-account are needed to pay items presented against your checking sub-account, they will be transferred back into the checking sub-account. Transfers into the checking sub-account will be made up to five times per statement cycle. If a sixth transfer is needed in any statement cycle, the entire balance of the savings sub-account will be transferred into the checking sub-account. The threshold balance is set by us and may be changed at any time at our discretion.

Internet Enabled Accounts:

You certify that you have access to the Internet and a current email address. You have sole responsibility for providing us with a correct and operational email address. You must promptly notify us of any change in your email or postal mailing address, or if you are unable to access your account information through the Internet. If you do not promptly notify us, we will not be held liable for any adverse effects to your Account as a result of undelivered mail or email or due to the inability to access your Account information over the Internet. We are not responsible for any costs that you incur for maintaining Internet access and an email account.

Electronic Communications:

You have consented to accept this Agreement and any other agreements, notices, disclosures or other communications regarding the Account in an electronic form. Electronic communications may be posted on the pages within the Higher One website and/or delivered to your email address. Remember to print a paper copy of any electronic communication and retain it for your records. All communications in either electronic or paper format will be considered to be "in writing," and to have been received no later than five (5) business days after posting or dissemination, whether or not you have received or retrieved the communication. We reserve the right to provide any communication in paper format.

Remember that your consent to receive communications electronically is valid until you revoke your consent by notifying us of your decision to do so. If you revoke your consent to receive communications electronically, we may terminate your Account or your right to use the Higher One website to the extent permitted by law.

Privacy:

[Privacy Policy](#)

You have had an opportunity to review, download or print our [Privacy Policy Notice](#) relating to the Account.

Illegal, Fraudulent or Improper Activity:

You will not use the Account for any illegal, fraudulent or improper activity. If we suspect that you may be engaging in or have engaged in a fraudulent, illegal or improper activity, including a violation of any terms and conditions relating to the Account, your access to the Account may be suspended or terminated. You understand that transactions in your Account may be suspended or terminated if an access device has been reported lost or stolen or when we reasonably believe that there is unusual activity in your Account. You will cooperate fully with us to investigate any suspected illegal, fraudulent or improper activity related to your Account.

Password Protection:

You will not disclose your password to access the Higher One website or this Account to any person. You will notify us immediately if your password is compromised or lost.

Security Features:

We strongly suggest that you use a web browser with 128-bit encryption. Regardless of whether you use a web browser with security features, we are unable to ensure that the data transmitted by you to us, or from us to you, will not be intercepted by third parties. To further ensure the security of your account, we encourage you to avoid transmitting confidential information through email communications.

Amendments:

We may change this Agreement at any time and, if such change will adversely affect your Account, we will give you notice before the effective date of the change as required by applicable law. We may provide this notice to you by emailing the notice to you directly or by posting this notice on the Higher One website through which you access this Account.

Suspension of Certain Services and Fees:

To the extent that your Account has a negative balance for sixty (60) consecutive days, your Account will be placed into a suspended status which will prohibit (i) the effective use of your Account and (ii) the incurrence of any insufficient funds fee to the Account until such time that you bring your Account current.

Consumer Credit Reports:

To the extent permitted by law, we may obtain consumer credit reports to determine whether you continue to meet the requirements for your Account, in connection with any service that you request or receive.

Closing the Account:

We may close your Account at any time for any reason and without notice to you. We will not be liable to you for dishonoring any check or other payment order presented for payment after we close your Account. We will mail you a notice that we have closed your Account and include the Account balance, less any fees or charges, personally or by mail.

You may close this Account at any time as long as you do not have a negative balance. In order to close your Account, you must have a minimum balance greater than or equal to \$0.00 and less than or equal to \$1.00. Please note that you will be responsible for any fees, penalties or charges owed to us.

Assignment:

You may not assign or transfer any rights or obligations you may have under this Agreement, or with respect to the Account, without our prior written consent. We reserve the right to transfer at any time any right or obligation under this Agreement without your consent unless otherwise stated herein.

Deposits:

Any items accepted for deposit (including items drawn "on us") will be given provisional credit in accordance with our [Funds Availability Disclosure Policy](#) until collection is final. We are not responsible for transactions initiated through mail or outside depository until we actually receive and record them. All transactions received after our "daily cut-off time" on a business day we are open, or received on a day in which we are not open for business will be treated and recorded as if initiated on the next following business day that we are open. Any funds sent to you by another User before you open your Account, may be held for your benefit in escrow and then released upon Account opening, and will be subject to the same availability rules, as if your account had been open at the time the funds were sent. We may refuse a deposit, limit the amount of a deposit, or return all or a portion of a deposit. Deposits are subject to verification by us.

Cash Deposits:

Please do not send cash deposits through the mail. In the event that cash deposits are received, you agree that our determination of the amount of the deposit will be final. We are not liable for any deposits, including cash, lost in the mail, lost in transit or not received by us.

Third Party Checks:

We will not accept third party checks for deposit. In the event that we receive a third party check, we will not deposit the check into the Account. Third-party checks will be returned to the sender via U.S. mail and we will not be liable for any checks that may become lost in the mail.

Endorsements:

Any check or other item submitted for deposit will be endorsed exactly as it was made payable. You warrant that all endorsements on items deposited to your Account are genuine. Any endorsement must be placed in the 1-inch area starting at the left side on the back of an item and the remaining area on the back of the item may not contain any preprinted, stamped or handwritten information. If you fail to do this, you may be required to reimburse us for losses incurred. In the absence of endorsement, you authorize us to supply any missing endorsements if items are made payable to you or your order and you have not endorsed them.

Deposited Items Returned:

If final payment is not received on any item you deposited to your Account, or if any direct deposit, automated clearinghouse deposit or electronic fund transfer to your Account is returned to us for any reason, you agree to pay us the amount of the return. We may charge any Account of which you are an owner, or re-present any check you deposit with us that is returned to us unpaid without prior notice to you. Please be advised that if your third party bank returns an Automated Clearing House ("ACH") transaction to Higher One due to insufficient or uncollected funds, we will automatically reattempt to successfully complete the transaction with your bank in 10

2 additional times, as permitted by law. We may charge a fee for returned deposited items in accordance with our Schedules of Fees.

You authorize us to attempt collection of previously returned items which you deposited. In our attempts to collect these items, you agree that we may allow the payor bank (the bank on which the item is drawn) to hold the item beyond its midnight deadline. If an item you deposit is returned unpaid, you waive the requirement for notice of this return.

If a claim is made on any item, subsequent to final payment, on the grounds that the item was altered, bears a forged or unauthorized endorsement, or was not otherwise properly payable, we may withhold credit for the item from your account until final determination of the claim. In addition, we will not be liable for a check or draft or other item that you deposit that has been forged or altered in such a way that a reasonable person could not discover the forgery or alteration.

Direct Deposits:

If, in connection with a direct deposit plan, we deposit any amount in this Account which is claimed by the federal government or any state government for any reason, you authorize us to deduct the amount of liability from this Account or from any other Account you have with us, without prior notice and at any time, except as prohibited by law. We may also use any other legal remedy to recover the amount of liability.

Withdrawals:

You may withdraw or transfer all or any part of the Account balance at any time on forms approved by us. We may charge your Account for a check, even though payment was made before the date of the check. The fact that we may honor withdrawal requests which overdraw the finally collected Account balance does not obligate us to do so unless required by law. Withdrawals will first be made from collected funds and we may, unless prohibited by law or our written policy, refuse any withdrawal request against uncollected funds, even if our general practice is to the contrary. We reserve the right to refuse any withdrawal or transfer request which is attempted by any method not specifically permitted which is for an amount less than any minimum withdrawal requirement or which exceeds any frequency limitation. Even if we honor a nonconforming request, repeated abuse of the stated limitations (if any) may eventually force us to close this Account.

You agree to maintain sufficient available funds on deposit to cover all items presented for payment against your Account. If you do not, payment may be refused. We reserve the right, without prior notice to you, to either pay or return any item presented for payment against insufficient or uncollected funds. In addition to the amount of the item, we may charge your Account a fee for the payment, or return of the item against insufficient or uncollected funds, in accordance with our Schedules of Fees. We are under no obligation to honor post-dated checks, with or without notice by you. Post-dated checks may be paid upon receipt from your account as any other check which is properly dated.

You agree immediately upon notice from us to deposit funds sufficient to cover the overdraft plus applicable charges. If we choose to honor any debit item that overdraws the Account we do so at our discretion and will not be obligated to do so thereafter. We will pay checks presented for payment against your Account in the order from the highest dollar amount checks to the lowest dollar amount checks. Effective February 1, 2011, we will pay checks presented for payment against your Account in the posting order, as sorted by check number. We reserve the right to change the posting order of checks presented to your Account, for payment, at anytime without notice to you.

If you fail to pay an overdraft that has occurred on your Account, we may report this information to ChexSystems.

ACH and Wire Transfers:

This Agreement is subject to Article 4A of the Uniform Commercial Code in the state in which you have your Account with us. If you originate a funds transfer and you identify by name and number a beneficiary financial institution, an intermediary financial institution or a beneficiary, we and every receiving or beneficiary financial institution may rely on the identifying number to make payment. We may rely on the number even if it identifies a financial institution, person or account other than the one named. You agree to be bound by automated clearinghouse association rules. These rules provide, among other things that payments made to you, or originated by you, are provisional, until final settlement is made through a Federal Reserve Bank or payment is otherwise made as provided in Article 4A-403(a) of the Uniform Commercial Code. If we do not receive such payment, we are entitled to a refund from you in the amount credited to your Account and the party originating such payment will not be considered to have paid the amount so credited. If we receive a credit to an Account you have with us by wire or ACH, we are not required to give you any notice of the payment order or credit.

Green Dot® MoneyPak® Transfer:

You may use the MoneyPak Number to add funds to your Account. The value associated with your MoneyPak is not insured by the FDIC until it is transferred into your Account. We are unable to replace the funds on your MoneyPak if it is lost or stolen. We may refuse to process any transaction that we believe may violate the MoneyPak Terms and Conditions Of Use. We are not responsible for your MoneyPak and you should refer to and review the MoneyPak Terms and Conditions Of Use.

Ownership of Account:

You are opening a single party Account and it will be owned by you individually.

Stop-Payment Orders:

We may accept a written or oral stop payment order from you. We may require you to complete a form authorizing the order (find the form under the Customer Service drop down menu on your Account page). You must give us sufficient notice so that we have a reasonable opportunity both to verify that the item is unpaid and to act on your request. You should not expect the stop payment to be effective until you have received confirmation of such. We may charge you a fee for each stop payment order and each renewal of the order as set forth in the Schedules of Fees.

To place a stop payment order on a check, we require the Account number and Check number. We may also require the reason for the stop payment request.

A check stop payment order generally expires after six months. However, we may in our sole discretion, elect to honor a stop payment order for a longer period of time without notice to you. If you want the order to continue after six months, you must ask us to renew the order. Each renewal is treated as a new order. If you want the order to expire in less than six months a request to cancel a stop payment must be submitted in writing. Your request to cancel the order is not effective until we have a reasonable opportunity to act on it. You should not expect the stop payment to be canceled until you have received confirmation of such. We cancel the order automatically when the Account on which the check is drawn is closed.

If the check is presented to us for payment after the order expires we may pay the check.

To place a stop payment on an eCheck/ACH, we require the merchant name, ACH amount and reason. If you give us the wrong ACH amount (even one penny off) or the wrong merchant name, we may pay the eCheck/ACH. We may use only a portion of the required information to identify the eCheck/ACH.

An eCheck/ACH stop payment order does not expire. If you would like to cancel the order a request to cancel a stop payment must

be submitted in writing. Your request to cancel the order is not effective until we have a reasonable opportunity to act on it. You should not expect the stop payment to be canceled until you have received confirmation of such. We cancel the order automatically when the Account on which the eCheck/ACH is drawn is closed.

You agree to hold us harmless for said amount, and for all damages, expenses and costs incurred on account of refusing payment of said check or ACH, and you further agree not to hold us liable on account of payment contrary to a stop payment order if such payment occurs through inadvertence, oversight or accident, or if the check or ACH is not described with absolute accuracy and certainty as to all details, especially the amount of said check or ACH.

We may pay the check or the ACH if presented to us after the order is canceled in writing.

Transfer of Account Balance to Higher One; Other Transfer:

You hereby appoint Higher One as your agent for purposes of any deposit Account you may open. You specifically authorize the Bank, at the direction of Higher One, to transfer the full balance of the Account to Higher One, as your agent, so as to permit Higher One to place such balance with another Federal Deposit Insurance Corporation ("FDIC")-insured depository institution. You also authorize the Bank to transfer any Account balance directly to a successor FDIC-insured depository institution as designated by Higher One without any further consent on your part. Upon any such transfer, the Bank's obligations and responsibilities with regard to you and your Account shall cease, and this Agreement shall terminate.

Statements:

You agree to examine and reconcile your statement of Account within 30 days of its posting on the Higher One website through which you access this Account. If you discover (or reasonably should have discovered) any unauthorized payments or alterations, you must promptly notify us of the relevant facts.

You are responsible for keeping track of your Account available balance. Merchants generally will not be able to determine your available balance. It's important to know your available balance before making any transaction. You may access your available balance by accessing your Account online or by calling 1-866-300-7452. Statements in electronic format will be made available free of charge at the Higher One website during each month in which a transaction occurs.

If you fail to do either of these duties you will have to either share the loss with us, or bear the loss entirely yourself (depending on whether we used ordinary care and, if not, whether we contributed to the loss). The loss could be not only with respect to items on the statement, but other items forged or altered by the same wrongdoer.

You agree that the time you have to examine your statement and report to us will depend on the circumstances, but will not, in any circumstance exceed a total of 60 days from when the statement is first made available to you.

You further agree that if you fail to report any unauthorized signatures, alterations, forgeries or any other errors in your Account within 60 days of when we make the statement available, you cannot assert a claim against us on any items in that statement, and the loss will be entirely yours. This 60-day limitation is without regard to whether we exercised ordinary care. The limitation in this paragraph is in addition to that contained in the first paragraph of this section.

Right of Setoff:

We may (without prior notice and when permitted by law) set off the funds in this Account against any due and payable debt you owe us now or in the future.

We will not be liable for the dishonor of any check when the dishonor occurs because we set off a debt against this Account. You agree to hold us harmless from any claim arising as a result of our exercise of our right of setoff.

Abandoned Accounts:

We may consider your Account to be abandoned if there has been no customer-initiated activity on your account for a period of nine (9) consecutive months unless prohibited by applicable law. "Customer-initiated activity" includes making a deposit or withdrawal, writing to us about your account, or otherwise showing an interest in the Account, such as asking us to keep the Account active. Charges we may impose are not considered a customer-initiated activity.

If your Account becomes abandoned, we may do the following, subject to applicable law:

- a. Charge abandoned account fees on the Account,
- b. Stop sending monthly statement reminders, and
- c. Refuse to pay items drawn on or payable out of the Account.

If you re-establish contact with us and the Account returns to active status, we do not have to reimburse you for these fees.

All abandoned Accounts will be subject to service charges in accordance with our Schedule of Fees.

Escheatment:

We are generally required by law to deliver to the applicable state agency any funds in an account if you do not initiate a transaction (deposit or withdrawal) for a period of time as defined by applicable state regulation. We will provide applicable notices to you, as required by law. You agree that we are not responsible for any funds delivered to the state in compliance with the laws of the applicable state agency.

Court Attachments; IRS Levies; Adverse Claims:

If your Account becomes subject to legal action, such as a tax levy or third party garnishment, we reserve the right to refuse to pay any money from your Account, including checks or other items presented for payment, until the action is resolved. If we are required to pay an attachment, garnishment or tax levy, we are not liable to you. Payment is made after satisfying any fees, charges or other debts owed to us. You agree that you are responsible for any expenses, including legal expenses and fees we incur due to a garnishment, levy or attachment on your Account. We may charge these expenses to your Account. Until we receive the appropriate court documents, we may continue to process transactions against your Account, even if we have received an official notification of an adverse claim. You will indemnify us for any losses if we do this.

Fees and Charges:

You agree to pay all fees and charges applicable to this Account. Please refer to the Schedule of Fees for the charges associated with certain transactions and/or requests. All fees and charges associated with your Account will apply while we are verifying your identity.

Contacting Higher One:

By US Mail: Higher One, 105 Munson St New Haven, CT 06511

By Toll-free Telephone: 1-866-306-7452

By Internet: www.HigherOne.com

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Notice of Change in Depository Bank

Effective on or after May 4, 2012, pursuant to these Account Terms and Conditions, The Bancorp Bank will transfer the full balance of your account directly to one of the Member FDIC depository bank's listed below. After your account is transferred, The Bancorp Bank will have no further responsibility as the depository institution for your account, and your account will be subject to a new account agreement with updated terms and conditions offered by Higher One and the new depository bank. You will be notified by e-mail when your account has transferred to the new depository bank.

The following are links to updated Account Terms and Conditions, which reflect our new depository banks,

[Wright Express Financial Services Corporation](#)

[Urban Trust Bank](#)

[Cole Taylor Bank](#)

Wire transfers are made available on the same business day we receive the deposit. If you receive wire transfers into your account, the routing number you use will change. You can find current routing number information on your Higher One Account statement.

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Funds Availability Policy Disclosure

We only accept items for deposit that are drawn on financial institutions located in the United States.

ACCOUNT STATUS

You are required to maintain your account in good standing at all times. "Good Standing" shall be determined by Higher One in its sole discretion. Accounts in good standing may be granted a "Courtesy Availability Amount" greater than that required by regulation. However, there is account activity that may jeopardize your account standing. Examples include, but are not limited to, repeated overdrafts of your account, returned deposited items, large deposits, frequent mail deposits and bounced Transfer Money transactions. If your account is not in good standing, your Courtesy Availability Amount may be reduced.

DETERMINING THE AVAILABILITY OF A DEPOSIT

Our policy is to delay the availability of funds that you deposit in your Account. During the delay, you may not withdraw the funds in cash and we will not use the funds to pay checks that you have written.

The length of the delay is counted in business days from the date of your deposit. Every day is a business day except Saturdays, Sundays, and federal holidays. If a deposit is received before 2pm on a business day, we will consider that date to be the date of your deposit. However, if the deposit is received after 2pm or on a day that we are not open, we will consider that the deposit was made on the next business day we are open. The length of the delay varies depending on the type of deposit and is explained below.

Same Day Availability

Funds from electronic direct deposits (such as Financial Aid Refund or direct deposit payroll) are available on the business day we receive the deposit. Green Dot MoneyPak transfers are available on the business day we receive the deposit.

Next Day Availability

Funds from the following sources are available not later than the business day after the banking day on which the deposit is received:

- 1. U.S. Treasury checks that are payable to you
- 2. Wire transfers.
- 3. Checks drawn on The Bancorp Bank.
- 4. State or local government checks that are payable to you.
- 5. Cashier, certified, and teller's checks that are payable to you.
- 6. Federal Reserve Bank checks, Federal Home Loan Bank checks, and U.S. Postal Service money orders if these items are made payable to you.

Add/Send Money Transfers

Transfer Money transactions to your Account - In order to move the money as you request, we send instructions to the third-party bank via the ACH network to charge your other bank account. Because we do not know if you have sufficient funds at the third-party bank, we do not typically provide immediate availability. As a courtesy to our customers, we will make available up to your Courtesy Availability Amount on the next business day after the day of deposit. The Courtesy Availability Amount will be determined by your account status as determined by Higher One.

Transfer Money transactions you receive from other Higher One Account holders - In order to move the money as you request, we send instructions to the third-party bank via the ACH network to charge your other bank account. Because we do not know if you have sufficient funds at the third-party bank, we do not typically provide immediate availability. As a courtesy to our customers, we will make up to your Courtesy Availability Amount the next business day after the day of deposit. The Courtesy Availability Amount will be determined by your account status as determined by Higher One.

Other Check Deposits

Our policy is to make the funds from checks, ineligible for next day availability, available as follows:
The first \$200 will be available no later than the first business day after the day of deposit. The remaining funds will be available no later than the second business day after the day of your deposit. (If you maintain your account in good standing, as determined solely by Higher One, you may receive up to \$500 in next day availability. Frequent deposits by mail are highly unusual for our customers. If more than one mail deposit is received within a five (5) day period, next day availability will be limited to \$200.)

Money Order Guidelines

Deposits of U.S. Postal Service money orders are available no later than the first business day after the day we receive the deposit, when your deposit is mailed to Higher One. Unlike U.S. Postal Service money orders, deposits of non-postal money orders (e.g., Western Union, MoneyGram) are not guaranteed and the funds will not be immediately available.

LONGER DELAYS MAY APPLY

Funds you deposit by check may be delayed for a longer period under the following circumstances:

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

We will notify you by email if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the 7th business day after the day of your deposit.

Special Rules for New Accounts

If you are a new customer, the following special rules apply during the first 30 days your Account is open. An Account is open when the first deposit is made to the Account.

Funds from electronic direct deposits to your Account will be available on the day we receive the deposit. Funds from deposits of cash, wire transfers, and the first \$5,000 of a day's total deposits of cashier's, certified, teller's, traveler's and federal, state and local government checks and US Postal Service money orders will be available the first business day after the day of your deposit. The excess over \$5,000 will be available no later than the 9th business day after your deposit. Funds from all other check deposits will be available no later than the 9th business day after the day of your deposit.

Changes to Policy Disclosure

If any of the above policy disclosure is changed, a description of the change will be sent to you at least thirty (30) days prior to implementing the change. However, if the change expedites the availability of funds, we may provide you with notice of such change up to thirty (30) days after the change is implemented.

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Electronic Fund Transfers: Your Rights and Responsibilities

Indicated below are types of Electronic Fund Transfers we process, some of which may not apply to your Account. Please read this disclosure carefully because it tells you your rights and obligations for the transactions listed. You should keep this notice for future reference.

Business Days:

For the purposes of this Electronic Fund Transfers disclosure, our banking days are Monday-Friday. Weekends and bank holidays are not included.

ACH, Automatic and Preauthorized Transfers:

You may make arrangements for certain direct deposits (such as some payroll deposits) to be made directly into your account. You may make arrangements to pay certain recurring bills or to pay for purchases made through the Internet or telephone from your account.

Electronic Fund Transfers Initiated By Third Parties:

You may authorize a third party to initiate electronic fund transfers between your account and the third party's account. These transfers to make or receive payment may be one-time occurrences or may recur as directed by you. These transfers may use the Automated Clearing House (ACH) or other payments network. Your authorization to the third party to make these transfers can occur in a number of ways. For example, your authorization to convert a check to an electronic fund transfer or to electronically pay a returned check charge can occur when a merchant provides you with notice and you go forward with the transaction (typically, at the point of purchase, a merchant will post a sign and print the notice on a receipt). In all cases, these third party transfers will require you to provide the third party with your account number and bank information. This information can be found on your check as well as on a deposit or withdrawal slip. Thus, you should only provide your bank and account information (whether over the phone, the Internet, or via some other method) to trusted third parties whom you have authorized to initiate these electronic fund transfers.

Examples of these transfers include, but are not limited to:

- **Preauthorized credits.** You may make arrangements for certain direct deposits to be accepted into your checking account(s).
- **Preauthorized payments.** You may make arrangements to pay certain recurring bills from your checking account(s).
- **Electronic check conversion.** You may authorize a merchant or other payee to make a one-time electronic payment from your checking account using information from your check to pay for purchases or pay bills.
- **Electronic returned check charge.** You may authorize a merchant or other payee to initiate an electronic funds transfer to collect a charge in the event a check is returned for insufficient funds.

Telephone Banking:

You may get access to your account 24 hours a day at 1-866-309-7452 in order to:

- 1. Get help with the Higher One website.
- 2. Get the balance of your Account.
- 3. Get information about the last 2 months from your Account.
- 4. Place a stop payment order*.
- 5. Request copies of statements, checks and deposited items*.
- 6. Report a card lost or stolen.

Debit MasterCard® Card Transactions

You may access your Account by Automated Teller Machine ("ATM") using your Debit MasterCard® card and your PIN (personal identification number) to:

1. Get cash withdrawals from your Account (you may withdraw no more than \$500.00 per day).
2. Get the Account balance of your Account (some of these services may not be available at all terminals).
3. If you use an ATM not owned by us for any transaction, including a balance inquiry, you may be charged a fee by the ATM operator even if you do not complete a withdrawal. If you obtain cash from a bank teller, the bank may charge a fee. This ATM fee or bank fee is a third party fee amount assessed by the individual ATM operator or bank only and is not assessed by us. This ATM fee or bank fee amount will be charged to your Account.

Debit MasterCard® Card Point-of-Sale ("POS") Transactions

You may access your account to purchase goods (in person, online or by phone), or to pay for services (in person, online or by phone) at any location that accepts Debit MasterCard®.

You may not exceed \$2,500.00 in POS Transactions per day with the Debit MasterCard®.

A hold may be placed on the funds available in your Account to cover the transaction. The hold will be in the amount of the transaction request that has been submitted by the merchant for authorization. Held funds will not be available for withdrawal or check writing purposes during the hold period. You will be responsible for resolving disputes concerning the quality of goods and services purchased or concerning the amount of the hold with the merchant that accepted the card.

Internet Banking

You may access your Account by computer with your user ID and Password and internet access to www.HigherUniversity.com to:

1. Get the Account balance of your checking account.
2. Get the Account history for the last 2 months.
3. Make payments from your Account to third parties.
4. Order official checks*.
5. Place a stop payment order*.
6. Place a wire transfer request*.
7. Request copies of statements, checks and deposited items*.

Your username and password act as your signature to authorize any requested transactions through the online banking service. For transfer transactions, your request will only be completed if you have sufficient funds in the Account from which you wish to transfer funds and DUAL AUTHENTICATION. Limitations are set for security reasons and are not disclosed for that reason. Transfers may be delayed based on the time of transaction and the type of transfer service you are utilizing to process the transfer.

Fees

We do not charge for direct deposits to the Account. Please refer to the separate Schedules of Fees for additional information about fees.

ATM Operator/Network Fees

When you use an ATM not owned by us, you may be charged a fee by the ATM operator or any network used (and you may be charged a fee for a balance inquiry even if you do not complete a fund transfer).

Charges Made in Foreign Currencies

If you obtain your funds or make a purchase in a currency other than the currency in which your Account was issued, the amount deducted from your funds will be converted by MasterCard International Incorporated into an amount in the currency of your Account. The exchange rate between the transaction currency and the billing currency used for processing international transactions is a rate selected by MasterCard International Incorporated from the range of rates available in wholesale currency markets for the applicable central processing date, which may vary from the rate MasterCard International Incorporated itself receives, or the government-mandated rate in effect for the applicable central processing date. If you obtain your funds or make a purchase in a currency other than the currency in which your account was issued, we may assess a foreign currency conversion fee of 3% of the transaction amount and will retain this amount as compensation for its services.

Personal Identification Number (PIN) and Passwords

Your PIN and password are identification methods that are both personal and confidential. You are required to use your PIN with your OneCard at an ATM or ATM Merchant terminal. It is a security method by which we help you maintain the security of your Account. Your password is another security method that maintains the security of your Account and the transactions you process online. Therefore, you agree to take all reasonable precautions that no one else learns your PIN or password. As such, you agree that you will not reveal your password, PIN, or any other access device to any person nor write your PIN or password on your card or on any item kept with your access devices, and not leave a computer terminal unattended after you have logged on using your password or other access device.

Preauthorized Payments

If you have told us in advance to make regular payments out of your Account, you can stop any of these payments with timely notice to us. Contact us at the website, telephone number or address listed in this disclosure in time for us to receive your request three business days or more before the payment is scheduled to be made. If you call, we will also require you to put your request in writing and get it to us within 14 days after you call. Please refer to our Schedules of Fees for the amount we will charge you for each stop payment order you request.

Notice of varying amounts

If these regular preauthorized payments may vary in amount, the person you are going to pay will tell you, 10 days before each payment, when it will be made, and how much it will be. (You may choose instead to get this notice only when the payment would differ by more than a certain amount from the previous payment, or when the amount would fall outside certain limits you set.)

Liability for failure to stop payment of preauthorized transfer:

If you order us to stop one of these payments 3 business days or more before the transfer is scheduled and we do not do so, we may be liable for your losses or damages.

Documentation Terminal transfer:

You can get a receipt at the time you make any transfer to or from your account using most automated teller machines or point-of-sale terminals.

Statement-

Statements in electronic format will be made available free of charge at the Higher One website during each month in which a transaction occurs. If you request, you may also receive a printed history of your account by calling 1-888-309-7452 or through the website at www.HigherOneUniversity.com.

Preauthorized credits:

If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you can call us at 1-888-309-7452 Monday - Friday from 8 a.m. to 11 p.m. Eastern Time to find out whether or not the deposit has been made.

Financial Institution's Liability:

Liability for failure to make transfers:

If we do not properly complete a transaction from your Account on time or in the correct amount according to our agreement with you, we will be liable for your losses or damages. However, there are some exceptions. We will not be liable, for instance:

1. If through no fault of ours, you do not have enough funds available in your Account to complete the transaction;
2. If a merchant refuses to accept your card;
3. If the ATM where you were making a cash withdrawal does not have enough cash;
4. If an electronic terminal where you are making a transaction does not operate properly, and you knew about the problem when you initiated the transaction;
5. If access to your Account has been blocked after you reported your card lost or stolen;
6. If there is a hold or your funds are subject to legal process or other encumbrance restricting their use;
7. If we have reason to believe the requested transaction is unauthorized;
8. If circumstances beyond our control (such as fire, flood, or computer or communication failure) prevent the completion of the transaction, despite reasonable precautions that we have taken; or
9. Any other exceptions stated in our Agreement with you.

Unauthorized Transfer:

Customer liability:

Tell us AT ONCE if you believe your card and/or code has been lost or stolen. Contacting us through the website is the best way of keeping your possible losses down. If you believe your card and/or PIN has been lost or stolen or that someone has transferred or may transfer money from your Account without your permission, contact us via the website or the telephone number or address listed in this brochure. Under MasterCard International Bylaws and Rules, your liability for unauthorized MasterCard transactions on your Account is \$50.00 if you notify us promptly and you exercise reasonable care in safeguarding your card from loss, theft, or unauthorized use. This reduced liability does not apply if a PIN is used as the method of verification for a disputed transaction or you have reported two (2) or more incidents of unauthorized use in the immediately preceding twelve (12) month period. If you tell us within two (2) business days, you can lose no more than \$50.00 if someone used your card and/or PIN without your permission. If you do NOT tell us within 2 business days after you learn of the loss or theft of your card and/or PIN, and we can prove we could have stopped someone from using your card and/or PIN without your permission if you had told us, you could lose as much as \$500.00. Also, if your statement (through the website or by the monthly mailed statement) shows transfers that you did not make, tell us AT ONCE. If you do not tell us within 60 days after your Account history has been made available to you, you may not get back any money you lost after the 60 days if we can prove that we could have stopped someone from taking the money if you had told us in time and you are grossly negligent or fraudulent in the handling of your card. If extraordinary circumstances keep you from telling us within the stated time, we shall extend the times specified above to a reasonable period.

Error Resolution Notice:

In case of Errors or Questions about your Electronic Transfers and Statements:

If you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt, contact us via our website at www.HigherOneUniversity.com, or telephone us at 1-888-309-7452 or write us at Higher One, Inc., Attn: Disputes, 105 Munson St New Haven, CT 06511. We must hear from you no later than 60 days after we sent the FIRST statement on which the problem or error appeared or 60 days from when your Account history was first made available to you through the website. 1) Tell us your name, card number, and Account number (if any). 2) Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information. 3) Tell us the dollar amount of the suspected error.

If you tell us orally, we will require that you send us your complaint in writing within 10 business days. We will tell you the results of our investigation within 10 business days (or 20 business days for a new Account) after we hear from you and will correct any error promptly. If our investigation takes longer than 10 business days (or 20 business days, as applicable), we will credit your Account with any amount you believe to be in error, unless we do not receive your written complaint within 10 business days. In any event, we will investigate and correct any error which has occurred no later than 45 days after you have first contacted us. We may take up to 90 days to investigate your complaint for errors involving new Accounts, point-of-sale, or foreign-initiated transactions. We will notify you the results within 3 business days after completing our investigation, and if we conclude that no error has occurred, we will send an explanation to you. If we have provisionally credited your Account during the investigation and determine that there was no error, you will be required to return any credit of funds you have received from us. You may ask for copies of the documents that we used in our investigation.

Confidentiality:

We may disclose information to third parties about your account or the transfers you make:

- (i) Where it is necessary for completing transfers, or
- (ii) In order to verify the existence and condition of your account for a third party, such as a credit bureau or merchant, or
- (iii) In order to comply with government agency or court orders such as any subpoena, summons, court or administrative order, or other legal process which we believe requires our compliance, or
- (iv) As otherwise described in our Privacy Policy, or
- (v) If you give us your written permission

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Contacting Us:

By US Mail: Higher One, 105 Munson St New Haven, CT 06511

By Toll-free Telephone: 1-866-369-7452

By Internet: www.HigherUniversity.com

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Online Bill Payment Terms and Conditions

These terms shall be part of the Account Terms and Conditions and shall apply to any use of the Online Bill Payment Service offered by Higher One ("Service").

Definitions:

"Agreement" means these Terms and Conditions of the Service.

"Business Day" is every Monday through Friday, excluding Federal Reserve holidays.

"Due Date" is the date reflected on your Recipient statement for which the payment is due. It is not the late date or grace period.

"Recipient" is the person or entity to which you request a bill payment to be directed.

"Payment Instruction" is the information provided by you to the Service for a bill payment to be made to the Recipient.

"Scheduled Payment" is a payment that has been scheduled through the Service but has not begun processing.

"Scheduled Payment Date" is the day your Account will be debited and is also the day the Service will begin processing your payment, unless the Scheduled Payment Date falls on a non-Business Day in which case it will be considered to be the next Business Day.

Payment Scheduling:

Transactions begin processing on your Scheduled Payment Date and will arrive approximately six (6) Business Days after the Scheduled Payment Date. When scheduling payments, you must select a Scheduled Payment Date that is no fewer than six (6) Business Days before the actual Due Date, not the late date or the grace period.

The Service Guarantee:

Due to circumstances beyond the control of the Service, particularly delays in handling and posting payments by Recipients or financial institutions, some transactions may take longer to be credited to your Account. The Service will bear responsibility for any late payment related charges, up to \$40.00 per incident and no more than \$90.00 during any calendar year, should a payment post after its Due Date as long as the payment was scheduled in accordance with the guidelines described under "Payment Scheduling" in this Agreement.

Payment Authorization and Payment Remittance:

By providing the Service with names, addresses and account information of Recipients to whom you request us to direct payments, you authorize the Service to follow the Payment Instructions that it receives through the payment system. In order to process payments more efficiently and effectively, the Service may edit or alter payment data or data formats in accordance with Recipient directives.

Please be aware that by initiating an online bill payment you are authorizing us to debit your Account to pay the indicated recipient on your behalf. In using the Service, you understand that Recipients and/or the United States Postal Service may return payments to the Service for various reasons. The Service will use its best efforts to research and correct the returned payment and return it to your Recipient, or void the payment and credit your Account.

The Service will use its best efforts to make all your payments properly. However, the Service will incur no liability and any Service guarantee will be void if the Service is unable to complete any payments initiated by you because of the existence of any one or more of the following circumstances: a) It, through no fault of the Service, your Account does not contain sufficient funds to complete the transaction; b) The payment processing center is not working properly and you know or have been advised by the Service about the malfunction before you execute the transaction; c) You have not provided the Service with the correct information such as the correct name, address, phone number, or account information for the Recipient; and d) Circumstances beyond the control of the Service (such as, but not limited to, fire, flood, or interference from an outside force) prevent the proper execution of the transaction.

Provided none of the foregoing exceptions are applicable, if the Service causes an incorrect amount of funds to be removed from your Account or causes funds from your Account to be directed to a Recipient inconsistent with your Payment Instructions, the Service will be responsible for returning the improperly transferred funds to your Account, and for directing to the proper Recipient any previously misdirected transactions.

Payment Methods:

The Service reserves the right to select, at its sole discretion, the method in which to remit funds on your behalf to your Recipient. These payment methods may include, but may not be limited to, an electronic payment or a check payment.

Payment Cancellation and Stop Payment Requests:

You may cancel or edit any Scheduled Payment (including recurring payments) by following the directions within the application. There is no charge for canceling or editing a Scheduled Payment. Once the Service has begun processing a payment it cannot be canceled or edited; therefore, a stop payment request must be submitted. The Service's ability to process a stop payment request will depend on the payment method and whether or not a check has cleared. The Service may also not have a reasonable opportunity to act on any stop payment request after a payment has been processed. If you desire to stop any payment that has already been processed, you must contact Customer Service. Although the Service will make every effort to accommodate your request, the Service will have no liability for failing to do so. The Service will not have liability for any third party charges that may be incurred. The Service may also require you to present your request in writing. The charge for each stop payment request will be the current charge for such service as set out in the applicable fee schedules.

Limitation on Payments:

Payments to Recipients outside of the United States or its territories are prohibited through the Service. You also agree to use the

Payment of institutional charges to the United States is not made and is not made through the Service. You agree to use the Service for institutional payments only. Tax payments and court ordered payments may be scheduled through the Service; however, such payments are discouraged and must be scheduled at your own risk. In no event will the Service be liable for any claims or damages resulting from you scheduling of these types of payments. The Service guarantees as it applies to any late payment related charges is void when these types of payments are scheduled and/or processed by the Service. The Service has no obligation to research or resolve any claim resulting from this type of payment. All research and resolution for any misapplied, misposited or misdirected payments will be your sole responsibility and not that of the Service.

The Service reserves the right to refuse, at our sole discretion, to pay any Recipient to whom you may direct a payment. The Service will notify you promptly if it decides to refuse to pay a Recipient designated by you. This notification is not required if you attempt to make a prohibited payment or an exception payment under this Agreement.

Exclusions of Warranties:

THE SERVICE AND RELATED DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. This Agreement does not alter your liability or obligations that currently exist between you and your Recipients.

Password and Security:

You agree not to give or make available your password or other means to access your Account to any other individuals. You are responsible for all payments authorized through your Account using the service. If you permit other persons to use the Service or your password or other means to access your Account, you are responsible for any transactions they authorize. If you believe that your password or other means to access your Account has been lost or stolen or that someone may attempt to use the Service without your consent or has transferred money with or without your permission, you must notify the Service immediately.

Services Fees and Additional Charges:

Any applicable fees are displayed on the website or set forth in the applicable fee schedules in effect from time to time. There may be a charge for additional transactions and other optional services. You agree to pay such charges and authorize the Service to deduct the calculated amount from your Account for these amounts and any additional charges that may be incurred by you. Any fees associated with your Account will continue to apply.

Alterations and Amendments:

This Agreement, applicable fees and service charges may be altered or amended by the Service from time to time. In such event, the Service will provide notice to you on the web or as required by law. Any use of the Service after the Service provides you a notice of change will constitute your agreement to such changes. Further, the Service may, from time to time, revise or update the applications, services, and/or related materials, which may render all such prior versions obsolete. Consequently, the Service reserves the right to terminate this Agreement as to all such prior versions of the applications, services, and/or related material and limit access to only the Service's more recent revisions and updates.

Service Termination, Cancellation, or Suspension:

In the event you wish to cancel the Service, you may have the ability to do so online, or you may contact customer service. Any payments the Service has already processed before the requested cancellation date will be completed by the Service. All Scheduled Payments including recurring payments will not be processed once the Service is cancelled. The Service may terminate or suspend Service to you at any time, at its sole discretion. Any abuse or commercial use of the Service can result in immediate termination of your use of the Service. Neither termination nor suspension will affect your liability or obligations under this Agreement.

Disputes

In the event of a dispute regarding the Service, you and the Service agree to resolve the dispute by looking to this Agreement. You agree that this Agreement is the complete and exclusive statement of the agreement between you and the Service which supersedes any marketing or prior agreement, oral or written, and any other communications between you and the Service relating to the subject matter of this Agreement. If there is a conflict between what an employee of the Service or Customer Service communicates and the terms of this Agreement, the terms of this Agreement will prevail. Any dispute or controversy arising out of this Agreement shall be submitted to and resolved exclusively by binding arbitration.

Miscellaneous

The Service will not be deemed to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Service. No delay or omission on the part of the Service in exercising any rights or remedies will operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on any one occasion will not be construed as a bar or waiver of any rights or remedies on future occasions.

You may not assign this Agreement to any other party. The Service may assign this Agreement to any future, directly or indirectly, affiliated company. The Service may also assign or delegate certain of its rights and responsibilities under this Agreement to independent contractors or other third parties.

The captions of sections hereof are for convenience only and will not control or affect the meaning or construction of any of the provisions of this Agreement.

Your card and your obligations under this Agreement may not be assigned. We may transfer our rights under this Agreement. Use of your card is subject to all applicable rules and customs of any clearinghouse or other association involved in transactions. We do not waive our rights by delaying or failing to exercise them at any time. If any provision of this Agreement shall be determined to be invalid or unenforceable under any rule, law, or regulation of any governmental agency, local, state, or federal, the validity or enforceability of any other provision of this Agreement shall not be affected. This Agreement will be governed by the law of the State of Delaware except to the extent governed by federal law.

THE FOREGOING WILL CONSTITUTE THE SERVICE'S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY. IN NO EVENT WILL THE SERVICE BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING LOST PROFITS (EVEN IF ADVISED OF THE POSSIBILITY THEREOF) ARISING IN ANY WAY OUT OF THE INSTALLATION, USE, OR MAINTENANCE OF THE SERVICE.

Contacting Higher One:

By US Mail: Higher One, 105 Munson St New Haven, CT 06511

By Toll-free Telephone: 1-866-309-7452

By Internet: www.HigherUniverseity.com

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Important Information About Substitute Checks (Check 21 Act)

What is a substitute check?

To make check processing faster, federal law permits banks to replace original checks with "substitute checks." These checks are similar in size to original checks with a slightly reduced image of the front and back of the original check. The front of a substitute check states: "This is a legal copy of your check. You can use it the same way you would use the original check." You may use a substitute check as proof of payment just like the original check.

Substitute Checks and Your Rights

In the event that you receive a check back from us, some or all of the checks you receive back may be substitute checks. This notice describes the rights you have in the event that you receive substitute checks from us. The rights in this notice do not apply to original checks or to electronic debits to your account. However, you have rights under other law with respect to those transactions.

What are my rights regarding substitute checks?

In certain cases, Federal law provides a special procedure that allows you to request a refund for losses you suffer if a substitute check is posted to your account (for example, if you think that we withdrew the wrong amount from your account or that we withdrew money from your account more than once for the same check). The losses you may attempt to recover under this procedure may include the amount that was withdrawn from your account and fees that were charged as a result of the withdrawal (for example, bounced check fees).

The amount of your refund under this procedure is limited to the amount of your loss or the amount of the substitute check, whichever is less. You also are entitled to interest on the amount of your refund if your account is an interest-bearing account. If your loss exceeds the amount of the substitute check, you may be able to recover additional amounts under other law.

If you use this procedure, you may receive up to \$2,500 of your refund (plus interest if your account earns interest) within ten (10) business days after we received your claim and the remainder of your refund (plus interest if your account earns interest) not later than forty-five (45) calendar days after we received your claim.

We may reverse the refund (including any interest on the refund) if we later are able to demonstrate that the substitute check was correctly posted to your account.

How do I make a claim for a refund?

If you believe that you have suffered a loss relating to a substitute check that you received and that was posted to your account, please contact us at:

Higher One, Inc.
105 Munson St
New Haven, CT 06511

Tel: 1-866-309-7452

Or, contact us via email by logging in to your account and clicking on the "EasyHelp" link

You must contact us within forty (40) calendar days of the date that we mailed (or otherwise delivered by a means to which you agreed) the substitute check in question or the account statement showing that the substitute check was posted to your account, whichever is later. We will extend this time period if you were not able to make a timely claim because of extraordinary circumstances.

Your claim must include:

- A description of why you have suffered a loss (for example, you think the amount withdrawn was incorrect);
- An estimate of the amount of your loss;
- An explanation of why the substitute check you received is insufficient to confirm that you suffered a loss; and
- A copy of the substitute check and the following information to help us identify the substitute check: *(identifying information, for example the check number, the name of the person to whom you wrote the check, the amount of the check)*.

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EasyDeposit check capture Terms and Conditions

These EasyDeposit check capture Terms and Conditions shall be an amendment to and a part of the Account Terms and Conditions and Related Disclosures and shall apply to any use of EasyDeposit check capture (the "Service"). By using the Service, you agree to be bound by the terms and conditions contained herein.

Definitions:

"You" and "your" means a person who uses the Service.

"Higher One," "we," "us" and "our" mean Higher One, Inc.

"Account" means your Account deposit account with us to which you are authorized to make a deposit using via EasyDeposit check capture, pursuant to these terms and conditions.

"Check 21" means the Check Clearing for the 21st Century Act.

"End User License Agreement" means the agreement as set forth in Schedule A hereto governing the use of the application software you must download in order to use the Service.

"Image" means the electronic image of the front and back of an item, in addition to other required information, as specified by us, in the format we specify.

"Image Replacement Document" or "IRD" means a substitute check, as defined in Check 21.

An "item" is an original check, cashier's check, official check, U.S. Treasury check, or any other payment instrument, drawn on a

financial institution within the United States and payable in U.S. currency that is payable to you. Items are deemed to be "items" under the Uniform Commercial Code and "checks" under The Expedited Funds Availability Act and Regulation CC.

"User Guide" means the application download instructions, device instructions and FAQs we provide to you on our Internet site from time to time, in addition to any help content contained within the software application that is downloaded to use the Service.

EasyDeposit check capture Service:

Pursuant to these terms and conditions, you may use the Service to scan and upload images for deposit to your Account. You may deposit images to us using the Service only from a scanner and computer located in the United States.

Hardware and Software Requirements:

It is your responsibility to obtain and maintain, at your own expense, a scanner capable of scanning an item and transmitting its image to Higher One. Your scanner must be compatible with the Service and acceptable to Higher One. Currently, most TWAIN compliant scanners are compatible with the Service and acceptable to Higher One. We may, but are not required to, at our sole discretion, reject images transmitted to us via the Service that were scanned using a scanner not compatible with the Service or acceptable to Higher One.

You are responsible for all costs of using the Service and operating your computer and scanner, including, but not limited to internet service charges.

You are responsible for the security of the computer and scanner you use with the Service, and for allowing its use only by individuals authorized by you. You agree to implement and maintain specific internal security controls to protect the computer and scanner and customer information. We may require that you implement and maintain additional specific controls, and we may notify you of those controls and amend them from time to time.

You are responsible for maintaining the system's capacity and connectivity required for use of the Service. We shall notify you of those requirements, and we may amend them from time to time.

Image Quality:

You are responsible for the image quality of any image that you transmit. Any image transmitted to Higher One using the Service must be legible, and the image quality must comply with the requirements established from time to time by ANSI, the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearing house or association. Higher One reserves the right to reject any image transmitted using the Service, that it, in its sole discretion, deems to be of insufficient image quality or nonconforming with the aforementioned standards, without prior notice to you. You understand and agree that it is your responsibility to monitor whether an image you transmit using the Service has been rejected for any reason and you agree to hold Higher One harmless from any loss or liability you may incur due to a transmitted image being rejected.

Each image must include the front and back of the item, and the following information must be clearly readable: amount, payee name, driver signature, date, check number, account number, routing and transit number, MICR (Magnetic Ink Character Recognition) line, and the following restrictive endorsement written on the check: "For deposit only at Higher One."

Processing Images:

You authorize us to process any image that you send us or convert an image to an Image Replacement Document. You authorize us to handle the image or IRD.

Limits:

We reserve the right to impose limits on the amount(s) and/or number of deposits that you transmit using the Service and to modify such limits from time to time. If you attempt to submit a deposit in excess of these limits, we may, at our sole discretion, reject your deposit. If we permit you to make a deposit in excess of these limits, such deposit will still be subject to these terms and conditions, and we will not be obligated to allow such a deposit at other times.

Deposit of other Items; deposits when Service not available:

You agree that you will not use the Service to deposit anything not meeting the definition of an item. If you use the Service to transmit anything that is not an item, or if for any reason we are not able to recognize what you have deposited using the Service as an item, we may reject it without prior notice to you. You agree to make such deposits through other channels that we offer. You further agree to use such other channels when the Service may not be available.

Returned Items:

You are solely responsible for any item for which you have been given provisional credit, and any such item that is returned or rejected may be charged to your Account. You acknowledge that all credits received for deposits made through the Service are provisional, subject to verification and final settlement. Any item that we return to you will be returned in the form of an image or an IRD.

Handling of Transmitted Items:

You agree not to allow an item to be deposited or presented for payment more than once, to the extent that it could result in the payment of the item more than once. You will not allow the transmission of an image of an item that has already been presented to us or to any bank by any other means. You will not allow transmission of an image of an item that has already been transmitted through the Service. If an image of an item has been transmitted to us or to any other financial services company or bank, you will not allow the item to be subsequently presented by any other means. If any item is presented or deposited more than once, whether by image or by any other means, we may, at our discretion, reject it or return it and charge it against your Account without prior notice to you.

For any image which you have transmitted, you shall be responsible for preventing the transmission of another image of the item or presentation of the item by any other means. You agree to retain the item until it has been credited to your Account, and thereafter to either destroy any item of which you have transmitted an image, or to otherwise render it incapable of transmission or presentation.

Errors:

You agree to notify Higher One of any suspected errors regarding items deposited through the Service immediately, but in no event later than 60 days after the applicable Higher One Account statement is made available. Unless you notify Higher One within 60 days, such statement regarding all deposits made through the Service shall be deemed correct.

Cooperation with Investigations:

You agree to cooperate with us in the investigation of unusual transactions, poor quality transmissions, and resolution of customer

claims, including by providing, upon request and without further cost, any originals or copies of items in your possession and your records relating to items and transmissions.

Payment Processing:

Item Processing

The manner in which the items are cleared, presented for payment, and collected shall be in Higher One's sole discretion subject to the Terms and Conditions and Related Disclosures governing your Account.

Transmission of Items

The images you send us are not considered received by us until you receive a message from us acknowledging that we have accepted your deposit. However, the confirmation that we send you does not mean that the transmission was complete or error free. You are not responsible for images we do not receive or that are dropped during transmission. We reserve the right to reject any image transmitted through the Service, at our sole discretion, without liability to you.

Funds Availability

The items you transmit using the Service are not subject to the funds availability requirements of Federal Reserve Board Regulation CC. Funds deposited using the Service will be available after Higher One receives payment for the funds submitted. Higher One may make such funds available sooner, at its sole discretion, based on factors such as the length of your relationship with us, transaction and experience information, account history and such other factors as Higher One, in its sole discretion, deems relevant.

Fees:

You are responsible for paying any fees applicable to your use of the Service as may be changed from time to time. We may charge any applicable fees for use of the Service at any time pursuant to the section titled "Amendment" below. You authorize the Higher One to deduct any such fees from any account in your name.

Representations and Warranties:

You make the following representations and warranties to us:

- a. You and any user you authorize will use the Service only for lawful purposes and in compliance with all applicable rules and regulations and with our reasonable instructions, rules, policies, specifications, and operating procedures and will not violate any law of any country or the intellectual property rights of any third party.
- b. You will use the Service to transmit and deposit images of items only.
- c. You will transmit only images of items acceptable for deposit through the Service and will handle items as agreed herein.
- d. You are a person authorized to endorse each item or are authorized to obtain payment of each item on behalf of a person entitled to enforce an item.
- e. Items have not been altered.
- f. Each item bears all required and authorized endorsements.
- g. Each item has been endorsed as "For deposit only".
- h. All of the warranties set forth in Section 4-207 of the Uniform Commercial Code as adopted in the State of Connecticut.
- i. All images accurately and legibly represent all of the information on the front and back of the item.
- j. You will not use the Service to transmit or deposit any item, (i) payable to any person or entity other than you, (ii) made payable to multiple parties, (iii) drawn on your own Account, (iv) which you know or should know to be fraudulent, altered, unauthorized, or missing a necessary endorsement, (v) that is a substitute check or image replacement document, (vi) that is drawn on an institution located outside of the United States or payable in foreign currency, (vii) that is created by you purportedly on behalf of the maker, such as a remotely created check, (viii) considered to be a Savings Bond; or (ix) dated more than six (6) months prior to the date of deposit.
- k. No depository bank, drawer, drawee, or endorser will receive presentation or return of, or otherwise be charged for, a substitute check, the original check, or a paper or electronic representation of a substitute check or the original check such that that person will be asked to make a payment based on a check that it already has paid.
- l. You will use the Service as required by the User Guide.
- m. Your understanding that acceptance of the End User License Agreement is required for use of the Service.

Indemnification and Limitations on Liability:

In addition to the indemnifications and limitations on liability contained in the Account Terms and Conditions and Related Disclosures, you hereby indemnify and hold us harmless for any claim, cost, loss or damage caused directly or indirectly by your failure to comply with these terms and conditions or by your breach of any representation or warranty contained herein.

HIGHER ONE SHALL NOT BE LIABLE FOR ANY DAMAGES OTHER THAN THOSE CAUSED SOLELY AND DIRECTLY BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND ITS LIABILITY SHALL IN NO EVENT EXCEED THE LESSER OF YOUR ACTUAL DAMAGES OR THE TOTAL IN FEES YOU PAID FOR THE USE OF THE SERVICE DURING THE SIX MONTH PERIOD PRIOR TO THE SUPPOSED ACT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. HIGHER ONE SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. YOU ACKNOWLEDGE THAT THE SERVICE IS PROVIDED BY HIGHER ONE ON AN "AS IS" BASIS, AND THAT YOU USE IT AT YOUR SOLE RISK.

EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS AND CONDITIONS, HIGHER ONE MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE SERVICE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Intellectual Property:

These terms and conditions do not transfer to you any ownership or proprietary rights in the Service or any associated software or any part thereof. We or our agents retain all intellectual property rights, title and interest in and to the Service and any associated software.

Neither you nor any user you authorize will (a) sell, lease, distribute, license or sublicense the Service; (b) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the Service or any part of it in any way for any reason; (c) provide, disclose, divulge or make available to or permit use of the Service by any third party; (d) copy or reproduce all or any part of the Service; or (e) interfere, or attempt to interfere, with the Service in any way.

Termination:

We may terminate or suspend the Service, or your use of the Service, at any time and for any reason, at our sole discretion.

Amendment:

We may change these terms and conditions at any time. We may add new terms and conditions and we may delete or amend existing terms and conditions. We generally send you advance notice of the change. If a change is favorable to you, however, we

may make the change at any time without advance notice. If you do not agree with the change you may discontinue using the Service. However, if you continue to use the Service, you shall be deemed to have accepted and agreed to the change(s).

Governing Law:

These Terms and Conditions, and your rights and our obligations thereunder, are governed by and interpreted according to federal law and the law of the State of Connecticut. If state and federal law are inconsistent, or if the state law is preempted by the federal law, federal law shall govern.

Schedule A

End User License Agreement

Higher One, Inc. ("Application Provider") is willing to license the EasyDeposit check capture Application ("Application"), to you ONLY IF YOU ACCEPT ALL OF THE TERMS IN THIS END USER LICENSE AGREEMENT ("License"). Application Provider is not willing to make the Application Provider available under any other terms or subject to any conditions.

BEFORE YOU CHOOSE THE "I AGREE" CHECKBOX BELOW, CAREFULLY READ THE TERMS AND CONDITIONS OF THIS LICENSE. BY CHOOSING THE "I AGREE" CHECKBOX YOU ARE (1) REPRESENTING THAT YOU ARE OVER THE AGE OF 18 AND HAVE THE CAPACITY AND AUTHORITY TO BIND YOURSELF TO THE TERMS OF THIS LICENSE AND (2) CONSENTING TO BE BOUND BY THIS LICENSE. IF YOU DO NOT AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS LICENSE, OR DO NOT REPRESENT THE FOREGOING, CHOOSE THE "DECLINE" CHECKBOX, IN WHICH CASE YOU WILL NOT AND MAY NOT RECEIVE, INSTALL OR USE THE APPLICATION. Any use of the Application other than pursuant to the terms of this License is a violation of U.S. and international copyright laws and conventions.

Grant of License:

Application Provider hereby grants you a limited, non-exclusive, non-transferable license to install the Application on your computer for your personal use, as applicable. You may not (and shall not permit any third party to) (i) copy (except as expressly permitted by this License), decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Application, any updates, or any part thereof; (ii) rent, lease, lend, sell, redistribute or sublicense the Application; or (iii) otherwise exercise any other right to the Application not expressly granted in this License. The terms of this License will govern any upgrades provided by Application Provider that replace and/or supplement the original Application.

Ownership of Application:

This License does not convey to you an interest in or to the Application, but only a limited right of use revocable in accordance with the terms of this License. The Application is NOT sold to you, and all rights not expressly granted herein are reserved to Application Provider and its licensors. Application Provider and its licensors own all right, title and interest in and to the Application. No license or other right in or to the Application is granted to you except for the rights specifically set forth in this License. You hereby agree to abide by United States copyright law and all other applicable laws of the United States and other nations and by any applicable international treaties.

Consent to Use of Data:

You agree that Application Provider may collect and use technical data and related information, including but not limited to technical information about your device, system and application software and peripherals, that is gathered periodically to facilitate the provision of software updates, product support and other services to you (if any) related to the Application. Application Provider may use this information, as long as it is in a form that does not personally identify you, to improve its products or to provide services or technologies to you.

Termination:

This License is valid until terminated by you or Application Provider. Application Provider may terminate the License at any time or for any reason. Your rights under this License will terminate immediately if you breach any term of this License. Upon termination of this License, you shall immediately cease all use of the Application and destroy all copies, full or partial, of the Application.

No Warranty:

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE APPLICATION IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE APPLICATION AND ANY SERVICES PERFORMED OR PROVIDED BY THE APPLICATION ("SERVICES") ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND APPLICATION PROVIDER HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE APPLICATION AND ANY SERVICES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. APPLICATION PROVIDER DOES NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE APPLICATION, THAT THE FUNCTIONS CONTAINED IN, OR SERVICES PERFORMED OR PROVIDED BY, THE APPLICATION WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE APPLICATION OR SERVICES WILL BE CORRECTED, NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY APPLICATION PROVIDER OR ITS AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SHOULD THE APPLICATION OR SERVICES PROVE DEFECTIVE, YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO YOU.

Limitation of Liability:

TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL APPLICATION PROVIDER BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE APPLICATION, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF APPLICATION PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR PERSONAL INJURY, OR OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO YOU.

Export Controls:

You may not use or otherwise export or re-export the Application except as authorized by United States law and the laws of the jurisdiction in which the Application was obtained. In particular, but without limitation, the Application may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the Application, you represent and warrant that you are not located in any such country or on any such list. You also agree that you will not use these products for any

purpose provided by United States law, including, without limitation, the development, design, manufacture or production of nuclear, missiles, or chemical or biological weapons.

U.S. Government End Users:

The Application is a "commercial item," as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all U.S. Government End Users acquire the Application with only those rights set forth herein.

Governing Law:

The laws of the State of Connecticut, excluding its conflicts of law rules, govern this License and your use of the Application. Your use of the Application may also be subject to other local, state, national or international laws.

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EasyDeposit Mobile check capture Terms and Conditions

These EasyDeposit Mobile check capture Terms and Conditions shall be an amendment to and a part of the Account Terms and Conditions and Related Disclosures and shall apply to any use of EasyDeposit Mobile check capture (the "Service"). By using the Service, you agree to be bound by the terms and conditions contained herein.

Definitions:

"You" and "your" means a person who uses the Service.

"Higher One," "we," "us" and "our" mean Higher One, Inc.

"Account" means your checking account with us to which you are authorized to make a deposit using via EasyDeposit Mobile check capture, pursuant to these terms and conditions.

"Capture Device" means any device acceptable to us, as determined from time to time, that provides for the capture of images from items and for transmission through the clearing process. At present, a Capture Device is any one of the following smart phones when powered by a cellular service provider:

Mobile Device	Other
Apple® iPhone® iOS 4.1 or later	Must have at least a 3.2 megapixel camera.
BlackBerry® Version 5.0 or later	Cellular or wi-fi data connection required. Carrier data rates may apply.
Android® Version 2.1 or later	

"Check 21" means the Check Clearing for the 21st Century Act.

"End User License Agreement" means the agreement as set forth in Schedule A hereto governing the use of the application software you must download in order to use the Service.

"Image" means the electronic image of the front and back of an item, in addition to other required information, as specified by us, in the format we specify.

"Image Replacement Document" or "IRD" means a substitute check, as defined in Check 21.

An "item" is an original check, cashier's check, official check, U.S. Treasury check, or any other payment instrument, drawn on a financial institution within the United States and payable in U.S. currency that is payable to you. Items are deemed to be "items" under the Uniform Commercial Code and "checks" under The Expedited Funds Availability Act and Regulation CC.

"User Guide" means the application download instructions, device instructions and FAQs we provide to you on our Internet site from time to time, in addition to any help content contained within the software application that is downloaded to your Capture Device.

EasyDeposit Mobile check capture:

Pursuant to these terms and conditions, you may use the Service to deposit items to your Account/Account by creating an image of the item using a Capture Device, and transmitting that image to us for deposit. You may transmit images to us only from a Capture Device located in the United States.

Hardware and Software Requirements:

It is your responsibility to obtain and maintain, at your own expense, a Capture Device. You are responsible for all costs of using the Service and operating the Capture Device, including, but not limited to telephone and internet service charges.

You agree to transmit an image to us using only a Capture Device as we have expressly authorized for your use to transmit images. We may, but are not required to, at our sole discretion, reject images that you transmit to us with an unapproved Capture Device or by other means to which we have not given our consent.

Any Capture Device that you use to transmit images to us pursuant to these terms and conditions must be approved by us.

You are responsible for the security of the Capture Device, and for allowing its use only by individuals authorized by you. You agree to implement and maintain specific internal security controls to protect the Capture Device and customer information. We may require that you implement and maintain additional specific controls, and we may notify you of those controls and amend them from time to time.

You are responsible for maintaining the system's capacity and connectivity required for use of the Service. We shall notify you of those requirements, and we may amend them from time to time.

Image Quality:

You are responsible for the image quality of any image that you transmit. Any image transmitted to Higher One using the Service must be legible, and the image quality must comply with the requirements established from time to time by ANSI, the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearing house or association. Higher One reserves the right to reject any image transmitted using the Service, that it, in its sole discretion, deems to be of insufficient image quality or nonconforming with the aforementioned standards, without prior notice to you. You understand and agree that it is your responsibility to monitor whether an image you transmit using the Service has been rejected for any reason and you agree to hold Higher One

harmless from any loss or liability you may incur due to a transmitted image being rejected.

Each image must include the front and back of the item, and the following information must be clearly readable: amount, payee name, drawer signature, date, check number, account number, routing and transit number, MICR (Magnetic Ink Character Recognition) line, and the following restrictive endorsement written on the check: "For deposit only at Higher One."

Processing Images:

You authorize us to process any image that you send us or convert an image to an image Replacement Document. You authorize us to handle the image or IRD.

Limits:

We reserve the right to impose limits on the amount(s) and/or number of deposits that you transmit using the Service and to modify such limits from time to time. If you attempt to initiate a deposit in excess of these limits, we may, at our sole discretion, reject your deposit. If we permit you to make a deposit in excess of these limits, such deposit will still be subject to these terms and conditions, and we will not be obligated to allow such a deposit at other times.

Deposit of other items; deposits when Service not available:

You agree that you will not use the Service to deposit anything not meeting the definition of an item. If you use the Service to transmit anything that is not an item, or if for any reason we are not able to recognize what you have deposited using the Service as an item, we may reject it without prior notice to you. You agree to make such deposits through other channels that we offer. You further agree to use such other channels when the Service may not be available.

Returned Items:

You are solely responsible for any item for which you have been given provisional credit, and any such item that is returned or rejected may be charged to your Account. You acknowledge that all credits received for deposits made through the Service are provisional, subject to verification and final settlement. Any item that we return to you will be returned in the form of an image or an IRD.

Handling of Transmitted Items:

You agree not to allow an item to be deposited or presented for payment more than once, to the extent that it could result in the payment of the item more than once. You will not allow the transmission of an image of an item that has already been presented to us or to any bank by any other means. You will not allow transmission of an image of an item that has already been transmitted through the Service. If an image of an item has been transmitted to us or to any other financial services company or bank, you will not allow the item to be subsequently presented by any other means. If any item is presented or deposited more than once, whether by image or by any other means, we may, at our discretion, reject it or return it and charge it against your Account without prior notice to you.

For any image which you have transmitted, you shall be responsible for preventing the transmission of another image of the item or presentation of the item by any other means. You agree to retain the item until it has been credited to your Account, and thereafter to either destroy any item of which you have transmitted an image, or to otherwise render it incapable of transmission or presentation.

Errors:

You agree to notify Higher One of any suspected errors regarding items deposited through the Service immediately, but in no event later than 60 days after the applicable Higher One Account statement is made available. Unless you notify Higher One within 60 days, such statement regarding all deposits made through the Service shall be deemed correct.

Cooperation with Investigations:

You agree to cooperate with us in the investigation of unusual transactions, poor quality transmissions, and resolution of customer claims, including by providing, upon request and without further cost, any originals or copies of items in your possession and your records relating to items and transmissions.

Payment Processing:

Item Processing

The manner in which the items are cleared, presented for payment, and collected shall be in Higher One's sole discretion subject to the Terms and Conditions and Related Disclosures governing your Account.

Transmission of Items

The images you send us are not considered received by us until you receive a message from us acknowledging that we have accepted your deposit. However, the confirmation that we send you does not mean that the transmission was complete or error free. We are not responsible for images we do not receive or that are dropped during transmission. We reserve the right to reject any image transmitted through the Service at our sole discretion, without liability to you.

Funds Availability

The items you transmit using the Service are not subject to the funds availability requirements of Federal Reserve Board Regulation CC. Funds deposited using the Service will be available after Higher One receives payment for the funds submitted. Higher One may make such funds available sooner, at its sole discretion, based on factors such as the length of your relationship with us, transaction and experience information, account history and such other factors as Higher One, in its sole discretion, deems relevant.

Fees:

You are responsible for paying any fees applicable to your use of the Service as may be changed from time to time. We may change any applicable fees for use of the Service at any time pursuant to the section titled "Amendment" below. You authorize the Higher One to deduct any such fees from any account in your name.

Representations and Warranties:

You make the following representations and warranties to us:

- a. You and any user you authorize will use the Service only for lawful purposes and in compliance with all applicable rules and regulations and with our reasonable instructions, rules, policies, specifications, and operating procedures and will not violate any law of any country or the intellectual property rights of any third party.

- b. You will use the Service to transmit and deposit images of items only.
- c. You will transmit only images of items acceptable for deposit through the Service and will handle items as agreed herein.
- d. You are a person authorized to enforce each item or are authorized to obtain payment of each item on behalf of a person entitled to enforce an item.
- e. Items have not been altered.
- f. Each item bears all required and authorized endorsements.
- g. Each item has been endorsed as "For deposit only".
- h. All of the warranties set forth in Section 4-207 of the Uniform Commercial Code as adopted in the State of Connecticut.
- i. All images accurately and legibly represent all of the information on the front and back of the item.
- j. You will not use the Service to transmit or deposit any item, (i) payable to any person or entity other than you, (ii) made payable to multiple parties, (iii) drawn on your own account, (iv) which you know or should know to be fraudulent, altered, unauthorized, or missing a necessary endorsement, (v) that is a substitute check or image replacement document, (vi) that is drawn on an institution located outside of the United States or payable in foreign currency, (vii) that is created by you purportedly on behalf of the maker, such as a remotely created check, (viii) considered to be a Savings Bond; or (ix) dated more than six (6) months prior to the date of deposit.
- k. No depository bank, drawer, drawee, or endorser will receive presentation or return of, or otherwise be charged for, a substitute check, the original check, or a paper or electronic representation of a substitute check or the original check such that that person will be asked to make a payment based on a check that it already has paid.
- l. You will use the Service as required by the User Guide.
- m. Your understanding that acceptance of the End User License Agreement is required for use of the Service.

Indemnification and Limitations on Liability:

In addition to the indemnifications and limitations on liability contained in the OneAccount Terms and Conditions and Related Disclosures, you hereby agree to indemnify and hold us harmless for any claim, cost, loss or damage caused directly or indirectly by your failure to comply with these terms and conditions or by your breach of any representation or warranty contained herein.

HIGHER ONE SHALL NOT BE LIABLE FOR ANY DAMAGES OTHER THAN THOSE CAUSED SOLELY AND DIRECTLY BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND ITS LIABILITY SHALL IN NO EVENT EXCEED THE LESSER OF YOUR ACTUAL DAMAGES OR THE TOTAL IN FEES YOU PAID FOR THE USE OF THE SERVICE DURING THE SIX MONTH PERIOD PRIOR TO THE SUPPOSED ACT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. HIGHER ONE SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. YOU ACKNOWLEDGE THAT THE SERVICE IS PROVIDED BY HIGHER ONE ON AN "AS IS" BASIS, AND THAT YOU USE IT AT YOUR SOLE RISK.

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Intellectual Property:

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Neither you nor any user you authorize will (a) sell, lease, distribute, license or sublicense the Service; (b) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the Service or any part of it in any way for any reason; (c) provide, disclose, divulge or make available to or permit use of the Service by any third party; (d) copy or reproduce all or any part of the Service; or (e) interfere, or attempt to interfere, with the Service in any way.

Termination:

We may terminate or suspend the Service, or your use of the Service, at any time and for any reason, at our sole discretion.

Amendment:

We may change these terms and conditions at any time. We may add new terms and conditions and we may delete or amend existing terms and conditions. We generally send you advance notice of the change. If a change is favorable to you, however, we may make the change at any time without advance notice. If you do not agree with the change you may discontinue using the Service. However, if you continue to use the Service, you shall be deemed to have accepted and agreed to the change(s).

Governing Law:

These Terms and Conditions, and your rights and our obligations thereunder, are governed by and interpreted according to federal law and the law of the State of Connecticut. If state and federal law are inconsistent, or if the state law is preempted by the federal law, federal law shall govern.

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Schedule A

End User License Agreement

Higher One, Inc. ("Application Provider") is willing to license the EasyDeposit Mobile check capture Application ("Application"), to you ONLY IF YOU ACCEPT ALL OF THE TERMS IN THIS END USER LICENSE AGREEMENT ("License"). Application Provider is not willing to make the Application Provider available under any other terms or subject to any conditions.

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Consent to Use of Data:

You agree that Application Provider may collect and use technical data and related information, including but not limited to technical information about your device, system and application software and peripherals, that is gathered periodically to facilitate the provision of software updates, product support and other services to you (if any) related to the Application. Application Provider may use this information, as long as it is in a form that does not personally identify you, to improve its products or to provide services or technologies to you.

Termination:

This License is valid until terminated by you or Application Provider. Application Provider may terminate the License at any time or for any reason. Your rights under this License will terminate immediately if you breach any term of this License. Upon termination of this License, you shall immediately cease all use of the Application and destroy all copies, full or partial, of the Application.

No Warranty:

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE APPLICATION IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE APPLICATION AND ANY SERVICES PERFORMED OR PROVIDED BY THE APPLICATION ("SERVICES") ARE PROVIDED "AS IS" AND "AS AVAILABLE", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND APPLICATION PROVIDER HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE APPLICATION AND ANY SERVICES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. APPLICATION PROVIDER DOES NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE APPLICATION, THAT THE FUNCTIONS CONTAINED IN, OR SERVICES PERFORMED OR PROVIDED BY, THE APPLICATION WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE APPLICATION OR SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE APPLICATION OR SERVICES WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY APPLICATION PROVIDER OR ITS AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SHOULD THE APPLICATION OR SERVICES PROVE DEFECTIVE, YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO YOU.

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Export Controls:

You may not use or otherwise export or re-export the Application except as authorized by United States law and the laws of the jurisdiction in which the Application was obtained. In particular, but without limitation, the Application may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the Application, you represent and warrant that you are not located in any such country or on any such list. You also agree that you will not use these products for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture or production of nuclear, missiles, or chemical or biological weapons.

U.S. Government End Users:

The Application is a "commercial item," as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all U.S. Government End Users acquire the Application with only those rights set forth herein.

Governing Law:

The laws of the State of Connecticut, excluding its conflicts of law rules, govern this License and your use of the Application. Your use of the Application may also be subject to other local, state, national or international laws.

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EXHIBIT C



Email Address:

Password:

Ex: janedoe@yahoo.com

(case sensitive)

Log In

[Forgot your password?](#)

Fee Schedules

We offer optional services to help you manage your account and avoid fees. To learn more about them, click on the [video links below](#) or use [EasyHelp™](#) to learn more. Fees may vary by program and account type. Please log in to see the fee schedule associated with your specific account.

[OneAccount Fee Schedule](#)
[OneAccount Flex Fee Schedule](#)
[OneAccount Premier Fee Schedule](#)

Effective December 20, 2010

Services with no additional fees

Minimum Balance Charge	No minimum balance required
Online Bill Payment Service	No additional fee
Check Writing	No additional fee
Electronic Statements	No additional fee
Higher One ATM Transactions	No additional fee
Signature Debit MasterCard® Transactions	No additional fee
MasterCard Zero Liability Protection Provided by Higher One	No additional fee (Paid for by Higher One when you "Swipe and Sign" for purchases)
Incoming Wire Transfer (Domestic and International)	No additional fee
Add Money to the OneAccount	No additional fee
Family and Friends Send Money	No additional fee
Transfer Money Between OneAccounts	No additional fee
24/7 Customer Service Access by Email with EasyHelp™ and via Automated Phone Services Line	No additional fee

[OneAccount Fee Schedule](#)
[OneAccount Flex Fee Schedule](#)
[OneAccount Premier Fee Schedule](#)

How to Use the OneAccount for Free

Effective May 1, 2012

Service	Fee	Why is a fee assessed for this service?	How to avoid this fee
Stop Payment	\$24.00	The stop payment of a check or electronic transaction has been requested by a customer.	Always be sure you have sufficient funds in your account to cover outstanding checks or electronic transfers.
Return Deposit Item	\$7.00	A deposit was made into the OneAccount that does not clear the other bank. More	Do your best to confirm that someone who writes you a check has sufficient funds in their account. More
Official Check	\$8.00	As per your request, Higher One has issued an official check.	Official checks are only required for very specific instances such as closing costs for a home purchase. More
Multiple Copies of Checks, Deposits and Archived Statements	First copy no additional fee. \$5.00 per additional item.	Sometimes, to reconcile records or figure out what you paid to whom, you may want more information than is offered on a statement. In this case, you can order check, deposit or archived documents for free. However, there is a fee for more than one copy of this document.	Do your best to only request a single copy of these documents and be sure to make use of the online services. Consider printing your account statements periodically so that you have easy access to this information should you require it.
Outgoing Wire Transfer	Domestic: \$25.00 International: \$50.00	As per your request, Higher One has debited funds from your OneAccount via wire transfer for delivery to another bank account. More	Higher One offers less costly alternatives for transferring funds. Always explore these options prior to requesting a wire transfer and paying the fee.

Video Tips

[How to choose a checking account](#)
[Avoid foreign ATM fees](#)
[Avoid PIN fees](#)

Service	Fee	Why is a fee assessed for this service?	How to avoid this fee
Merchant PIN-Based Transaction	\$0.50 per transaction	At checkout you selected "debit" and entered your Personal Identification Number (PIN), or a merchant processed your transaction as a PIN-less debit transaction even if you did not explicitly provide your PIN.	Over half of OneAccount holders never receive more than one PIN fee...they are easy to avoid! Instead of entering your Personal Identification Number (PIN) at checkout, <u>choose "credit" and sign the receipt to avoid the PIN fee.</u>
Non-Higher One ATM Transactions (Includes all withdrawals, inquiries, and declines)	Domestic: \$2.50 International: \$5.00	A non-Higher One ATM has been used.	"Swipe and Sign" for all your purchases instead of visiting the ATM. However, if you must use an ATM, do so at FREE Higher One ATMs only.
Insufficient or Uncollected Funds - Returned Item or Paid Item	First Item: \$29.00 Additional items: \$38.00	You have spent more money than you have available in your OneAccount by making recurring debit card payments, a purchase made with an e-check or paper check, or via ACH.	The majority of account holders never pay an insufficient funds fee. To ensure you're among them, sign up for our Mobile Alerts, track your purchases and pay special attention to recurring debit card purchases, purchases made with an e-check or a paper check, and via ACH. <u>More</u>
Card Replacement	Non-Proxy: \$20.00 Proxy: \$20.00	A replacement card was ordered for you.	Be sure to keep your card in a safe place to protect against loss or theft.
Abandoned Account Fee (Charged after 6 months with no transactions) Note: There is no fee on accounts with a \$0 balance	Up to \$10.00 per month	You have not used your OneAccount in 6 consecutive months. Higher One proactively sends you an email notification so that you can avoid this fee.	Use your account regularly. Or, if you do not plan to continue using your account, take the steps to close it.
Cash Advances	3.5% (\$5.00 minimum)	You took a withdrawal of cash from your OneAccount. <u>More</u>	"Swipe and Sign" for all your purchases, or withdraw cash for free at a Higher One ATM instead of taking a cash advance. <u>More</u>
International Transactions	3%	Your card was used at a merchant location that is identified as being outside of the United States.	This fee is applied for being able to use your card in this manner.
Delinquent Account Fee	\$50.00	Your account has been overdrawn for 45 consecutive days and for \$5 or more.	Pay off the balance if you overdraw your account. Or, if you do not plan to continue using your account, take the steps to close it.