

## CLEARBALANCE ONLINE TERMS OF USE

Last revised June 2017

**These terms and conditions of use (“Terms of Use”) govern your use of** our online interfaces and properties (e.g., websites and mobile applications) owned and controlled by CSI Financial Services, LLC (“ClearBalance”), including **the ClearBalance.org and MyClearBalance.com websites (collectively, the “Site”). Your compliance with these Terms of Use is a condition to your use of the Site. If you do not agree to be bound by the Terms of Use, promptly exit this Site. Please also consult our [Privacy Policy](#) for a description of our privacy practices and policies.**

**Binding Arbitration.** These Terms of Use provide that all disputes between you and ClearBalance will be resolved by BINDING ARBITRATION. ACCORDINGLY, YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT (INCLUDING IN A CLASS ACTION PROCEEDING) to assert or defend your rights under these Terms of Use (except for matters that may be taken to small claims court). Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury and your claims cannot be brought as a class action. Please review the Section below entitled [Dispute Resolution; Arbitration Agreement](#) for the details regarding your agreement to arbitrate any disputes with ClearBalance.

### Ownership of the Site

All pages within this Site and any material made available for download are the property of ClearBalance), or its licensors or suppliers, as applicable. The Site is protected by United States and international copyright and trademark laws. The Contents of the Site, including without limitation the files, documents, text, photographs, images, audio, and video, and any materials accessed through or made available for use or download through this Site (“Content”) may not be copied, distributed, modified, reproduced, published or used, in whole or in part, except for purposes authorized or approved in writing by ClearBalance. You may not frame or utilize framing techniques to enclose, or deep linking to, any name, trademarks, service marks, logo, Content or other proprietary information (including; images, text, page layout, or form) of ClearBalance without our express written consent.

### Site Access, Security and Restrictions; Passwords

You are prohibited from violating or attempting to violate the security of the Site, including, without limitation, (a) accessing data not intended for such user or logging onto a server or an account which the user is not authorized to access; or (b) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization; or (c) accessing or using the Site or any portion thereof without authorization, in violation of these Terms of Use or in violation of applicable law.

You may not use any scraper, spider, robot or other automated means of any kind to access or copy data on the Site, deep-link to any feature or content on the Site, bypass our robot exclusion headers or other measures we may use to prevent or restrict access to the Site.

Violations of system or network security may result in civil or criminal liability. ClearBalance will investigate occurrences that may involve such violations and may involve, and cooperate with, law enforcement authorities in prosecuting users who are involved in such violations. You agree not to use any device, software or routine to interfere or attempt to interfere with the proper working of this Site or any activity being conducted on this Site.

Access to certain portions of the Site are limited and require a user ID and password ("Protected Areas"), you agree to access Protected Areas using only your user ID and password as provided to you by ClearBalance. You agree to protect the confidentiality of your user ID and password, and not to share or disclose your user ID or password to any third party. You agree that you are fully responsible for all activity occurring under your user ID. Your access to the Site may be revoked by ClearBalance at any time with or without cause. You agree to defend, indemnify and hold ClearBalance harmless from and against all third party claims, damages and expenses (including reasonable attorneys' fees) against or incurred by ClearBalance arising out of your breach of these Terms of Use or violation of applicable law, your use or access of the Site, or access by anyone accessing the Site using your user ID and password.

### **Accuracy and Integrity of Information**

Although ClearBalance attempts to ensure the integrity and accurateness of the Site, it makes no representations, warranties or guarantees whatsoever as to the correctness or accuracy of the Site and Content thereon. It is possible that the Site could include typographical errors, inaccuracies or other errors, and that unauthorized additions, deletions and alterations could be made to the Site by third parties. In the event that an inaccuracy arises, please inform ClearBalance so that it can be corrected. Information contained on the Site may be changed or updated without notice. Additionally, ClearBalance shall have no responsibility or liability for information or Content posted to the Site from any non-ClearBalance affiliated third party.

### **Online Payments**

You can make payments on your ClearBalance Revolving Credit Account on and through the Site. We accept payments by credit card, debit card, and electronic funds transfers from your checking account (each is referred to as a "Payment Account"). Please note that we may not be able to accept any payment by credit card or debit card if your ClearBalance Revolving Credit Account is in default. If a credit card or debit card is being used for a payment, ClearBalance may obtain preapproval for an amount up to the amount of the payment. (If you use a debit card for a payment, your bank may place a hold on funds in your bank account in excess of the amount of your payment, pursuant to your bank's policies. Please contact your bank if you have questions about their policies.)

If you enroll to make recurring payments automatically, all charges and fees will be billed to the Payment Account you designate during the setup process. If you want to designate a different Payment Account or if there is a change in your Payment Account, you must change your information online. This may temporarily delay your ability to make online payments while we verify your new payment information.

To stop a preauthorized recurring payment, notify us at 888-334-4022 and the bank with which you maintain your Payment Account at least three banking business days before your payment due date.

You represent and warrant that if you are making online payments that (i) any credit card, debit card and bank account information you supply is true, correct and complete, (ii) charges incurred by you will be honored by your credit/debit card company or bank, (iii) you will pay the charges incurred by you in the amounts posted, including any applicable taxes, and (iv) you are the person in whose name the card was issued and you are authorized to make a purchase or other transaction with the relevant credit card and credit card information. If your bank or credit card issuer fails to pay the amount that you authorized us to charge to your Payment Account by the payment due date for any reason, we will reverse the credit to your ClearBalance account and we may charge you a returned payment fee, as disclosed in the

ClearBalance Revolving Account Agreement, which has been previously provided to you.

### **Links to Other Sites**

ClearBalance makes no representations whatsoever about any other website that you may access through this Site. When you access a non-ClearBalance site, please understand that it is independent from ClearBalance, and that ClearBalance has no control over the Content on that website. In addition, a link to a non-ClearBalance website does not mean that ClearBalance endorses or accepts any responsibility for the Content, or the use, of the linked site. It is up to you to take precautions to ensure that whatever you select for your use or download is free of such items as viruses, worms, Trojan horses, and other items of a destructive nature. If you decide to access any of the third party sites linked to this Site, you do this entirely at your own risk.

### **User Generated Content, Reviews, Feedback and other Postings to the Site**

If you submit, upload or post any comments, ideas, suggestions, information, files, images or other materials to us or our Site ("User Generated Content"), you agree not to provide any User Generated Content that (1) is defamatory, abusive, libelous, unlawful, obscene, threatening, harassing, fraudulent, pornographic, or harmful, or that could encourage criminal or unethical behavior, (2) violates or infringes the privacy, copyright, trademark, trade dress, trade secrets or intellectual property rights of any person or entity, or (3) contains or transmits a virus or any other harmful component. You agree not to contact other site users through unsolicited e-mail, telephone calls, mailings or any other method of communication. ClearBalance shall have a royalty-free, irrevocable, transferable right and license to use the User Generated Content however ClearBalance desires, including without limitation, to copy, modify, delete in its entirety, adapt, publish, translate, create derivative works from and/or sell and/or distribute such User Generated Content and/or incorporate such User Generated Content into any form, medium or technology throughout the world. ClearBalance is and shall be under no obligation (1) to maintain any User Generated Content in confidence; (2) to pay to you any compensation for any User Generated Content; or (3) to respond to any User Generated Content.

ClearBalance does not regularly review posted User Generated Content, but does reserve the right (but not the obligation) to monitor and edit or remove any User Generated Content submitted to the Site. You grant ClearBalance the right to use the name that you submit in connection with any User Generated Content. You agree not to use a false email address, impersonate any person or entity, or otherwise mislead as to the origin of any User Generated Content. You are and shall remain solely responsible for the content of any User Generated Content you make. ClearBalance and its affiliates take no responsibility and assume no liability for any User Generated Content submitted by you or any third party.

You agree to defend, indemnify and hold ClearBalance harmless from and against all third party claims, damages and expenses (including reasonable attorneys' fees) against or incurred by ClearBalance arising out of any User Generated Content you post or allow to be posted to the Site.

### **Claims of Copyright Infringement**

We disclaim any responsibility or liability for copyrighted materials posted on our site. If you believe that your work has been copied in a manner that constitutes copyright infringement, please follow the procedures set forth below.

ClearBalance respects the intellectual property rights of others and expects its users to do the same. In accordance with the Digital Millennium Copyright Act ("**DMCA**"), we will respond promptly to notices of alleged infringement that are reported to ClearBalance's Designated Copyright Agent, identified below.

#### **Notices of Alleged Infringement for Content Made Available through the ClearBalance Site**

If you are a copyright owner, authorized to act on behalf of one, or authorized to act under any exclusive right under copyright, please report alleged copyright infringements taking place on or through our Site by sending us a notice ("Notice") complying with the following requirements.

1. Identify the copyrighted works that you claim have been infringed.
2. Identify the material or link you claim is infringing (or the subject of infringing activity) and that access to which is to be disabled, including at a minimum, if applicable, the URL of the link shown on the Site where such material may be found.
3. Provide your mailing address, telephone number, and, if available, email address.
4. Include both of the following statements in the body of the Notice:

"I hereby state that I have a good faith belief that the disputed use of the copyrighted material is not authorized by the copyright owner, its agent, or the law (e.g., as a fair use)."

"I hereby state that the information in this Notice is accurate and, under penalty of perjury, that I am the owner, or authorized to act on behalf of the owner, of the copyright or of an exclusive right under the copyright that is allegedly infringed."

5. Provide your full legal name and your electronic or physical signature.

Deliver this Notice, with all items completed, to our Copyright Agent:

ClearBalance  
Attention Legal Dept.  
P.O. Box 927830  
San Diego, CA 92192-7830

#### **Disclaimer of Warranties**

COMPANY DOES NOT WARRANT THAT ACCESS TO OR USE OF THE SITE WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT DEFECTS IN THE SITE WILL BE CORRECTED. THIS SITE, INCLUDING ANY CONTENT OR INFORMATION CONTAINED WITHIN IT OR ANY SITE-RELATED SERVICE, IS PROVIDED "AS IS," WITH ALL FAULTS, WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY OF INFORMATION, QUIET ENJOYMENT, AND TITLE/NON-INFRINGEMENT. COMPANY DOES NOT WARRANT THE ACCURACY, COMPLETENESS OR TIMELINESS OF THE INFORMATION OBTAINED THROUGH THE SITE.

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WARRANTIES RELATING TO PRODUCTS OR SERVICES OFFERED, SOLD AND DISTRIBUTED BY COMPANY ARE SUBJECT TO SEPARATE WARRANTY TERMS AND CONDITIONS, IF ANY, PROVIDED WITH OR IN CONNECTION WITH THE APPLICABLE PRODUCTS OR SERVICES.

#### **Medical Advice Disclaimer**

The content of the Site, including without limitation, text, copy, audio, video, photographs, illustrations, graphics and other visuals, is for informational purposes only and does not constitute professional medical advice, diagnosis, treatment or recommendations of any kind. You should always seek the advice of your qualified health care professionals with any questions or concerns you may have regarding your individual needs and any medical conditions. ClearBalance does not recommend or endorse any specific tests, physicians, products, procedures, opinions or other information that may be included on the Site. Reliance on any information appearing on the Site, whether provided by ClearBalance, its content providers, its clients, visitors to the Site or others, is solely at your own risk.

#### **Limitation of Liability Regarding Use of Site**

COMPANY AND ANY THIRD PARTIES MENTIONED ON THIS SITE ARE NEITHER RESPONSIBLE NOR LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE, OR OTHER DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM LOST PROFITS, LOST DATA, OR BUSINESS INTERRUPTION) ARISING OUT OF OR RELATING IN ANY WAY TO THE SITE, SITE-RELATED SERVICES, CONTENT OR INFORMATION CONTAINED WITHIN THE SITE, AND/OR ANY LINKED WEBSITE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY AND WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOUR SOLE REMEDY FOR DISSATISFACTION WITH THE SITE, SITE-RELATED SERVICES, AND/OR LINKED WEBSITES IS TO STOP USING THE SITE AND/OR THOSE SERVICES. TO THE EXTENT ANY ASPECTS OF THE FOREGOING LIMITATIONS OF LIABILITY ARE NOT ENFORCEABLE, THE MAXIMUM LIABILITY OF COMPANY TO YOU WITH RESPECT TO YOUR USE OF THIS SITE IS \$500 (FIVE HUNDRED DOLLARS).

#### **Dispute Resolution; Arbitration Agreement.**

We will try work in good faith to resolve any issue you have with Site, including payments made through the Site, if you bring that issue to the attention of our customer service department. However, we realize that there may be rare cases where we may not be able to resolve an issue to a customer's satisfaction.

You and ClearBalance agree that any dispute, claim or controversy arising out of or relating in any way to your use of the Site, including payments made, and any products and services order or purchased through the Site, shall be determined by binding arbitration instead of in courts of general jurisdiction. Arbitration is more informal than bringing a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, and is subject to very limited review by courts. Arbitration allows for more limited discovery

than in court, however, we agree to cooperate with each other to agree to reasonable discovery in light of the issues involved and amount of the claim. Arbitrators can award the same damages and relief that a court can award, but in so doing, the arbitrator shall apply substantive law regarding damages as if the matter had been brought in court, including without limitation, the law on punitive damages as applied by the United States Supreme Court. You agree that, by agreeing to these Terms of Use, the U.S. Federal Arbitration Act governs the interpretation and enforcement of this provision, and that you and ClearBalance are each waiving the right to a trial by jury or to participate in a class action. This arbitration provision shall survive termination of these Terms of Use and any other contractual relationship between you and ClearBalance.

If you desire to assert a claim against ClearBalance, and you therefore elect to seek arbitration, you must first send to ClearBalance, by certified mail, a written Notice of your claim ("Notice"). The Notice to ClearBalance should be addressed to: ClearBalance, P.O. Box 927830 San Diego, CA 92192-7830, Attention Legal Dept. ("Notice Address"). If ClearBalance desires to assert a claim against you and therefore elects to seek arbitration, it will send, by certified mail, a written Notice to the most recent address we have on file or otherwise in our records for you. A Notice, whether sent by you or by ClearBalance, must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought ("Demand"). If ClearBalance and you do not reach an agreement to resolve the claim within 30 days after the Notice is received, you or ClearBalance may commence an arbitration proceeding or file a claim in small claims court. During the arbitration, the amount of any settlement offer made by ClearBalance or you shall not be disclosed to the arbitrator. You may download or copy a form Notice and a form to initiate arbitration from the American Arbitration Association at [www.adr.org](http://www.adr.org). If you are required to pay a filing fee, after ClearBalance receives notice at the Notice Address that you have commenced arbitration, it will promptly reimburse you for your payment of the filing fee, unless your claim is for more than US \$10,000. The arbitration will be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by these Terms of Use, and will be administered by the AAA. The AAA Rules and Forms are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by requesting them from us by writing to us at the Notice Address. The arbitrator is bound by the terms of these Terms of Use. All issues are for the arbitrator to decide, including issues relating to the scope and enforceability of these Terms of Use, including this arbitration agreement. Unless ClearBalance and you agree otherwise, any arbitration hearings will take place in the county (or parish) of your billing address. (If you reside outside of the United States, any arbitration hearings will take place in your country of residence at a location reasonably convenient to you, but will remain subject to the AAA Rules including the AAA rules regarding the selection of an arbitrator). If your claim is for US \$10,000 or less, we agree that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim exceeds US \$10,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. If the arbitrator issues you an award that is greater than the value of ClearBalance's last written settlement offer made before an arbitrator was selected (or if ClearBalance did not make a settlement offer before an arbitrator was selected), then ClearBalance will pay you the amount of the award or US \$1,000, whichever is greater. Except as expressly set forth herein, the payment of all filing, administration and arbitrator fees will be governed by the AAA Rules. Each party shall pay for its own costs and



attorneys' fees, if any. However, if any party prevails on a statutory claim that affords the prevailing party attorneys' fees, or if there is a written agreement providing for payment or recovery attorneys' fees, the arbitrator may award reasonable fees to the prevailing party, under the standards for fee shifting provided by law.

YOU AND COMPANY AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and ClearBalance agree otherwise, the arbitrator may not consolidate more than one person's claims with your claims, and may not otherwise preside over any form of a representative or class proceeding. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim.

If this specific provision is found to be unenforceable, then (a) the entirety of this arbitration provision shall be null and void, but the remaining provisions of these Terms of Use shall remain in full force and effect; and (b) exclusive jurisdiction and venue for any claims will be in state or federal courts in New York, New York.

### **Revisions; General**

ClearBalance reserves the right, in its sole discretion, to terminate your access to all or part of this Site, with or without cause, and with or without notice. The failure by ClearBalance to enforce any provision or right contained in these Terms of Use will not be deemed a waiver of such provision or right. In the event that any of the Terms of Use are held by a court or other tribunal of competent jurisdiction to be unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that these Terms of Use shall otherwise remain in full force and effect. These Terms of Use constitute the entire agreement between ClearBalance and you pertaining to the subject matter hereof. In its sole discretion, ClearBalance may from time-to-time revise these Terms of Use by updating this posting. You should, therefore, periodically visit this page to review the current Terms of Use, so you are aware of any such revisions to which you are bound. Certain provisions of these **Terms of Use** may be superseded by expressly designated legal notices or terms located on particular pages within this Site.