UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-Q

(Mark One)

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2024

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

Commission file number: 001-40161

DAVE INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware	**86-1481509**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
1265 South Cochran Ave Los Angeles, CA	**90019**
(Address of principal executive offices)	**Zip Code**

Registrant's telephone number, including area code: (844) 857-3283

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	**Trading Symbol(s)**	**Name of Each Exchange on Which Registered**
Class A common stock, par value $0.0001	**DAVE**	**The Nasdaq Stock Market LLC**
Redeemable warrants, each whole warrant exercisable for one share of Class A common stock, each at an exercise price of $368 per share	**DAVEW**	**The Nasdaq Stock Market LLC**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period than the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES ☒ NO ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). YES ☒ NO ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒	Smaller reporting company	☒
		Emerging growth company	☒

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). YES ☐ NO ☒

As of November 1, 2024 there were 11,242,888 shares of Class A common stock, $0.0001 par value, and 1,514,082 shares of Class V common stock, $0.0001 par value, issued and outstanding.

DAVE INC.
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CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q (this "Form 10-Q" or this "report") contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). All statements contained in this Form 10-Q other than statements of historical fact, including statements regarding our future results of operations, financial position, market size and opportunity, our business strategy and plans, the factors affecting our performance, our objectives for future operations, our liquidity, borrowing capacity, our use of cash and cash requirements and the expected effects of new accounting pronouncements, are forward-looking statements. The words "believe," "may," "will," "estimate," "continue," "anticipate," "intend," "could," "should," "would," "can," "expect," "project," "outlook," "forecast," "objective," "plan," "potential," "seek," "grow," "target," "if" and similar expressions are intended to identify forward-looking statements. We have based these forward-looking statements largely on our current expectations and projections about future events and trends that we believe may affect our financial condition, results of operations, business strategy, short-term and long-term business operations and objectives and financial needs. These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described in the section titled "Risk Factors" set forth in Part I, Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2023 filed with the Securities and Exchange Commission (the "SEC") on March 5, 2024 (the "Annual Report"). Moreover, we operate in a very competitive and rapidly changing environment. New risks emerge from time to time. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties and assumptions, the future events and trends discussed in this Form 10-Q may not occur, and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements. Forward-looking statements contained in this Form 10-Q involve a number of judgments, risks and uncertainties, including, without limitation, risks related to:

- the ability of Dave to compete in its highly competitive industry;
- the ability of Dave to keep pace with the rapid technological developments in its industry and the larger financial services industry;
- the ability of Dave to manage risks associated with providing ExtraCash;
- the ability of Dave to retain its current members, acquire new members and sell additional functionality and services to its members;
- the ability of Dave to protect intellectual property and trade secrets;
- the ability of Dave to maintain the integrity of its confidential information and information systems or comply with applicable privacy and data security requirements and regulations;
- the reliance by Dave on a single bank partner, and the ability of Dave to maintain or secure current and future key banking relationships and other third-party service providers;
- changes in applicable laws or regulations and extensive and evolving government regulations that impact operations and business;
- the ability to attract or maintain a qualified workforce;
- the level of product service failures that could lead Dave members ("Members") to use competitors' services;
- investigations, claims, disputes, enforcement actions, litigation and/or other regulatory or legal proceedings, including with respect to the Federal Trade Commission ("FTC");
- the ability to maintain the listing of Dave Class A Common Stock on The Nasdaq Stock Market;
- the possibility that Dave may be adversely affected by other economic factors, including rising interest rates, and business, and/or competitive factors; and
- other risks and uncertainties described in this Form 10-Q, including those described under Part II Item 1A, "Risk Factors."

We caution you that the foregoing list of judgments, risks and uncertainties that may cause actual results to differ materially from those in the forward-looking statements may not be complete. You should not rely upon forward-looking statements as predictions of future events. The events and circumstances reflected in the forward-looking statements may not be achieved or occur. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. Except as required by law, we do not intend to update any of these forward-looking statements after the date of this report or to conform these statements to actual results or revised expectations.

Except as required by law, we do not intend to update any of these forward-looking statements after the date of this report or to conform these statements to actual results or revised expectations.

You should read this report with the understanding that our actual future results, levels of activity, performance and events and circumstances may be materially different from what we expect.

This report contains estimates, projections and other information concerning our industry, our business and the markets for our products. We obtained the industry, market and similar data set forth in this report from our own internal estimates and research and from industry research, publications, surveys and studies conducted by third parties, including governmental agencies. Information that is based on estimates, forecasts, projections, market research or similar methodologies is inherently subject to uncertainties, and actual events or circumstances may differ materially from events and circumstances that are assumed in this information. While we believe that the data we use from third parties are reliable, we have not separately verified these data. You are cautioned not to give undue weight to any such information, projections and estimates.

As used in this report, the "Company," "Dave," "we," "us," "our" and similar terms refer to Dave Inc. (f/k/a VPC Impact Acquisition Holdings III, Inc.) and its consolidated subsidiaries, unless otherwise noted or the context otherwise requires.

PART I—FINANCIAL INFORMATION

Item 1. Financial Statements

Dave Inc.
Condensed Consolidated Balance Sheets
(in thousands; except share data)

	As of September 30, 2024 (unaudited)	As of December 31, 2023
Assets		
Current assets:		
Cash and cash equivalents	$ 35,059	$ 41,759
Marketable securities	96	952
ExtraCash receivables, net of allowance for credit losses of $21,133 and $20,310 as of September 30, 2024 and December 31, 2023, respectively	165,533	112,846
Investments	39,996	113,226
Prepaid income taxes	-	148
Prepaid expenses and other current assets	13,986	7,955
Total current assets	**254,670**	**276,886**
Property and equipment, net	810	1,118
Lease right-of-use assets (related-party of $580 and $773 as of September 30, 2024 and December 31, 2023, respectively)	580	773
Intangible assets, net	14,017	13,206
Debt facility commitment fee, long-term	204	318
Restricted cash	1,546	1,319
Other non-current assets	415	403
Total assets	**$ 272,242**	**$ 294,023**
Liabilities, and stockholders' equity		
Current liabilities:		
Accounts payable	$ 8,840	$ 5,485
Accrued expenses	17,111	12,626
Lease liabilities, short-term (related-party of $337 and $298 as of September 30, 2024 and December 31, 2023, respectively)	337	298
Legal settlement accrual	7,172	3,330
Other current liabilities	3,956	3,865
Total current liabilities	**37,416**	**25,604**
Lease liabilities, long-term (related-party of $295 and $543 as of September 30, 2024 and December 31, 2023, respectively)	295	543
Debt facility, long-term	75,000	75,000
Convertible debt, long-term	-	105,451
Warrant and earnout liabilities	758	233
Other non-current liabilities	2,958	129
Total liabilities	**$ 116,427**	**$ 206,960**
Commitments and contingencies (Note 11)		
Stockholders' equity:		
Preferred stock, par value per share $0.0001, 10,000,000 shares authorized; 0 shares issued and outstanding at September 30, 2024 and December 31, 2023	-	-
Class A common stock, par value per share $0.0001, 500,000,000 shares authorized; 11,242,338 and 10,683,736 shares issued at September 30, 2024 and December 31, 2023, respectively; 11,192,775 and 10,634,173 shares outstanding at September 30, 2024 and December 31, 2023.	1	1
Class V common stock, par value per share $0.0001, 100,000,000 shares authorized; 1,514,082 shares issued and outstanding at September 30, 2024 and December 31, 2023, respectively;	-	-
Additional paid-in capital	324,821	296,733
Accumulated other comprehensive gain	246	649
Accumulated deficit	(169,253)	(210,320)
Total stockholders' equity	**$ 155,815**	**$ 87,063**
Total liabilities, and stockholders' equity	**$ 272,242**	**$ 294,023**

See accompanying notes to the condensed consolidated financial statements.

Dave Inc.
Condensed Consolidated Balance Sheets, Continued
(in thousands)

The following table presents the assets and liabilities of a consolidated variable interest entity ("VIE"), which are included in the condensed consolidated balance sheets above. The assets in the table below may only be used to settle obligations of consolidated VIEs and are in excess of those obligations. All intercompany accounts have been eliminated.

	As of September 30, 2024	As of December 31, 2023
	(unaudited)	
Assets		
Cash and cash equivalents	$ 30,420	$ 37,684
Investments	18,948	21,264
ExtraCash receivables, net of allowance for credit losses	127,360	95,812
Debt facility commitment fee, current	151	139
Debt facility commitment fee, long-term	204	318
Total assets	**$ 177,083**	**$ 155,217**
Liabilities		
Accounts payable	617	661
Long-term debt facility	75,000	75,000
Total liabilities	**$ 75,617**	**$ 75,661**

See accompanying notes to the condensed consolidated financial statements.

Dave Inc.
Condensed Consolidated Statements of Operations
(in thousands; except per share data)
(unaudited)

	For the Three Months Ended		For the Nine Months Ended	
	September 30, 2024	September 30, 2023	September 30, 2024	September 30, 2023
Operating revenues:				
Service based revenue, net	$ 83,390	$ 59,179	$ 220,603	$ 166,740
Transaction based revenue, net	9,099	6,632	25,633	$ 19,234
Total operating revenues, net	**92,489**	**65,811**	**246,236**	**185,974**
Operating expenses:				
Provision for credit losses	13,680	15,983	37,988	43,861
Processing and servicing costs	8,576	7,064	24,093	21,414
Advertising and marketing	12,501	13,914	32,341	38,370
Compensation and benefits	30,763	23,081	79,830	71,380
Other operating expenses	24,419	16,343	58,366	54,922
Total operating expenses	**89,939**	**76,385**	**232,618**	**229,947**
Other (income) expenses:				
Interest income	(439)	(1,332)	(2,471)	(4,009)
Interest expense	1,964	3,057	6,146	8,982
Gain on extinguishment of convertible debt	-	-	(33,442)	-
Changes in fair value of earnout liabilities	(17)	2	116	(35)
Changes in fair value of public and private warrant liabilities	203	(257)	408	(239)
Total other (income) expense, net	**1,711**	**1,470**	**(29,243)**	**4,699**
Net income (loss) before provision for income taxes	**839**	**(12,044)**	**42,861**	**(48,672)**
Provision for income taxes	373	9	1,794	24
Net income (loss)	**$ 466**	**$ (12,053)**	**$ 41,067**	**$ (48,696)**
Net income (loss) per share:				
Basic	$ 0.04	$ (1.01)	$ 3.30	$ (4.10)
Diluted	$ 0.03	$ (1.01)	$ 3.02	$ (4.10)
Weighted-average shares used to compute net income (loss) per share				
Basic	12,639,294	11,960,078	12,426,122	11,887,199
Diluted	13,932,652	11,960,078	13,587,377	11,887,199

See accompanying notes to the condensed consolidated financial statements.

Dave Inc.
Condensed Consolidated Statements of Comprehensive Income (loss)
(in thousands)
(unaudited)

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2024	**2023**	**2024**	**2023**
Net income (loss)	$ 466	$ (12,053)	$ 41,067	$ (48,696)
Other comprehensive gain (loss):				
Unrealized gain (loss) on available-for-sale securities	171	362	(403)	1,167
Comprehensive income (loss)	**$ 637**	**$ (11,691)**	**$ 40,664**	**$ (47,529)**

See accompanying notes to the condensed consolidated financial statements.

Dave Inc.
Condensed Consolidated Statement of Stockholders' Equity
(in thousands, except share data)
(unaudited)

	Common stock							
	Class A		Class V		Additional paid-in capital	Accumulated other comprehensive income	Accumulated deficit	Total stockholders' equity
	Shares	Amount	Shares	Amount				
Balance at January 1, 2024	**10,634,173**	**1**	**1,514,082**	**-**	**296,733**	**649**	**(210,320)**	**87,063**
Issuance of Class A common stock in connection with stock plans	558,602	-	-	-	893	-	-	**893**
Stock-based compensation	-	-	-	-	27,195	-	-	**27,195**
Unrealized loss on available-for-sale securities	-	-	-	-	-	(403)	-	**(403)**
Net income	-	-	-	-	-	-	41,067	**41,067**
Balance at September 30, 2024	**11,192,775**	**$ 1**	**1,514,082**	**$ -**	**$ 324,821**	**$ 246**	**$ (169,253)**	**$ 155,815**

	Common stock							
	Class A		Class V		Additional paid-in capital	Accumulated other comprehensive loss	Accumulated deficit	Total stockholders' equity
	Shares	Amount	Shares	Amount				
Balance at January 1, 2023	**10,284,657**	**$ 1**	**1,514,082**	**$ -**	**$ 270,037**	**$ (1,675)**	**$ (161,803)**	**$ 106,560**
Issuance of Class A common stock in connection with stock plans	253,068	-	-	-	17	-	-	**17**
Payment for fractional shares after reverse stock split					(13)			**(13)**
Stock-based compensation	-	-	-	-	20,146	-	-	**20,146**
Unrealized gain on available-for-sale securities	-	-	-	-	-	1,167	-	**1,167**
Net loss	-	-	-	-	-	-	(48,696)	**(48,696)**
Balance at September 30, 2023	**10,537,725**	**$ 1**	**1,514,082**	**$ -**	**$ 290,187**	**$ (508)**	**$ (210,499)**	**$ 79,181**

	Common stock							
	Class A		Class V		Additional paid-in capital	Accumulated other comprehensive income	Accumulated deficit	Total stockholders' equity
	Shares	Amount	Shares	Amount				
Balance at June 30, 2024	**11,099,727**	**1**	**1,514,082**	**-**	**311,400**	**75**	**(169,719)**	**141,757**
Issuance of Class A common stock in connection with stock plans	93,048	-	-	-	62	-	-	**62**
Stock-based compensation	-	-	-	-	13,359	-	-	**13,359**
Unrealized loss on available-for-sale securities	-	-	-	-	-	171	-	**171**
Net income	-	-	-	-	-	-	466	**466**
Balance at September 30, 2024	**11,192,775**	**$ 1**	**1,514,082**	**$ -**	**$ 324,821**	**$ 246**	**$ (169,253)**	**$ 155,815**

	Common stock							
	Class A		Class V		Additional paid-in capital	Accumulated other comprehensive loss	Accumulated deficit	Total stockholders' equity
	Shares	Amount	Shares	Amount				
Balance at June 30, 2023	**10,421,151**	**$ 1**	**1,514,082**	**$ -**	**$ 283,432**	**$ (869)**	**$ (198,446)**	**$ 84,118**
Issuance of Class A common stock in connection with stock plans	116,574	-	-	-	15	-	-	**15**
Stock-based compensation	-	-	-	-	6,740	-	-	**6,740**
Unrealized gain on available-for-sale securities	-	-	-	-	-	361	-	**361**
Net loss	-	-	-	-	-	-	(12,053)	**(12,053)**
Balance at September 30, 2023	**10,537,725**	**$ 1**	**1,514,082**	**$ -**	**$ 290,187**	**$ (508)**	**$ (210,499)**	**$ 79,181**

See accompanying notes to the condensed consolidated financial statements.

Dave Inc.
Condensed Consolidated Statements of Cash Flows
(in thousands)
(unaudited)

	For the Nine Months Ended September 30,	
	2024	**2023**
Operating activities		
Net income (loss)	$ 41,067	$ (48,696)
Adjustments to reconcile net income (loss) to net cash used in operating activities:		
Depreciation and amortization	5,339	3,863
Provision for credit losses	37,988	43,861
Changes in fair value of earnout liabilities	116	(35)
Changes in fair value of public and private warrant liabilities	408	(239)
Gain on extinguishment of convertible debt	(33,442)	-
Stock-based compensation	27,195	20,146
Non-cash interest	251	2,320
Non-cash lease expense	(16)	(17)
Changes in fair value of marketable securities and investments	(47)	211
Changes in operating assets and liabilities:		
ExtraCash receivables, service based revenue	(3,651)	(2,534)
Prepaid income taxes	148	18
Prepaid expenses and other current assets	(6,020)	603
Accounts payable	2,851	(2,334)
Accrued expenses	4,486	3,460
Legal settlement accrual	3,842	(2,035)
Other current liabilities	91	(612)
Other non-current liabilities	2,829	4
Other non-current assets	(12)	137
Net cash provided by operating activities	**83,423**	**18,121**
Investing activities		
Payments for internally developed software costs	(5,522)	(5,888)
Purchase of property and equipment	(212)	(658)
Net originations and collections of ExtraCash receivables	(87,024)	(34,268)
Purchase of investments	(74,815)	(92,024)
Sale and maturity of investments	147,689	137,193
Purchase of marketable securities	(59,273)	(34,385)
Sale of marketable securities	60,129	33,027
Net cash (used in) provided by investing activities	**(19,028)**	**2,997**
Financing activities		
Payment for fractional shares on reverse stock split	-	(13)
Proceeds from issuance of common stock for stock option exercises	893	17
Payment of costs for extinguishment of convertible debt	(761)	-
Repayment of borrowings on convertible debt, long-term	(71,000)	-
Net cash used in (provided by) financing activities	**(70,868)**	**4**
Net (decrease) increase in cash and cash equivalents and restricted cash	(6,473)	21,122
Cash and cash equivalents and restricted cash, beginning of the period	43,078	23,677
Cash and cash equivalents and restricted cash, end of the period	**$ 36,605**	**$ 44,799**

Supplemental disclosure of non-cash investing and financing activities:		
Property and equipment purchases in accounts payable and accrued liabilities	$ 4	$ 7
Supplemental disclosure of cash paid for:		
Income taxes	$ 104	$ 4
Interest	$ 5,833	$ 3,608
The following table provides a reconciliation of cash and cash equivalents, and restricted cash reported within the condensed consolidated balance sheets with the same as shown in the condensed consolidated statement of cash flows		
Cash and cash equivalents	$ 35,059	$ 43,608
Restricted cash	1,546	1,191
Total cash, cash equivalents, and restricted cash, end of the period	**$ 36,605**	**$ 44,799**

See accompanying notes to the condensed consolidated financial statements.

Note 1 Organization and Nature of Business

Overview:

Dave Inc. (“Dave” or the “Company”), a Delaware corporation, with headquarters located in Los Angeles, California, is a financial services company. Dave offers a suite of innovative financial products aimed at helping Members improve their financial health. To help Members avoid punitive overdraft fees and access short-term liquidity, Dave offers its flagship 0% interest ExtraCash product. Through the Dave Checking Account and the Dave Goals account, the Company provides Members with an affordable and transparent banking solution with valuable tools for building long-term financial health. Dave also helps Members generate extra income for spending or emergencies through Dave’s Side Hustle and Surveys products, where Dave presents Members with supplemental work and income opportunities.

ExtraCash:

Many Americans are often unable to maintain a positive balance between paychecks, driving a reliance on bank overdraft products, payday loans, auto title loans and other forms of expensive credit to put food on the table, gas in their car or pay for unexpected emergencies. For example, traditional banks charge up to $35 for access to as little as $5 of overdraft, and many others in the financial services sector do not allow for overdraft at all. Dave invented a short-term liquidity alternative called ExtraCash, offered through our partnership with Evolve Bank & Trust, a federal reserve member bank and member of the FDIC ("Evolve"), which allows Members to receive via an overdraft of their deposit account with Evolve, up to $500 with an option to send their overdraft funds to an external bank account via the automated clearing house (ACH) network (which typically takes two to five business days) and avoid fees altogether. Members also have the option to send their funds to a Dave Checking account or to an external bank account via the debit card networks (which typically takes minutes or hours) for an instant transfer fee.

Dave Banking:

Dave offers a full-service digital checking account through our partnership with Evolve Bank & Trust. Dave Checking accounts do not have overdraft or minimum balance fees, allow for early paycheck payment, offer a Dave debit card to facilitate everyday spending and provide FDIC insurance on checking account balances up to $250,000. Moreover, Dave Banking Members receive features to support their financial health such as 4.00% annual percentage yield ("APY") deposit rates on both checking and Goals accounts and opt-in round-up savings on debit transactions in addition to receiving lower ExtraCash instant transfer fees.

Budget:

Leveraging our data connections to Members' bank accounts and spending activity, Dave offers a personal financial management tool to support Members with budgeting, wherever someone banks. With Budget, Dave helps Members to manage their income and expenses between paychecks and avoid liquidity jams that may cause them to overdraft. Dave tracks Members’ income and expenses, and we let them know about estimated upcoming bills and other expenses that are likely to impact their account balances. Budget will monitor their linked bank account held at a depository institution, including a Dave Banking account, and will let them know when they are in danger of having insufficient funds in their account. This helps Members avoid overdrafts, returned transactions and bank fees.

Side Hustle and Surveys:

Dave seeks to help Members improve their financial health by offering them opportunities to generate supplemental income through two channels: Side Hustle and Surveys. Through Side Hustle, our Members can quickly submit applications to leading employers, including Lyft, Instacart, and Walmart that can lead to increased income with flexible employment. Our Surveys product allows for additional earning opportunities, allowing Members to take paid surveys anytime within the Dave mobile application. These channels drive engagement within the Dave ecosystem and deepen our relationship to our Members’ financial well-being.

Note 2 Significant Accounting Policies

Basis of Presentation

These condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

On January 4, 2023, the Board approved an amendment to the Company's certificate of incorporation to complete a 1-for-32 reverse stock split effective January 5, 2023. At a special meeting held on December 13, 2022, stockholders approved the reverse stock split. The primary goal of the reverse stock split was to bring the Company's stock price above the share bid price requirement for continued listing on Nasdaq. The effects of the reverse stock split have been reflected in the condensed consolidated financial statements and the footnotes.

Principles of Consolidation

The condensed consolidated financial statements include the accounts of the Company and a variable interest entity ("VIE"). All intercompany transactions and balances have been eliminated upon consolidation.

In accordance with the provisions of Accounting Standards Codification ("ASC") 810, Consolidation, the Company consolidates any VIE of which the Company is the primary beneficiary. The typical condition for a controlling financial interest ownership is holding a majority of the voting interests of an entity; however, a controlling financial interest may also exist in entities, such as VIEs, through arrangements that do not involve controlling voting interests. ASC 810 requires a variable interest holder to consolidate a VIE if that party has the power to direct the activities of the VIE that most significantly impact the VIE's economic performance and the obligation to absorb losses of the VIE that could potentially be significant to the VIE or the right to receive benefits from the VIE that could potentially be significant to the VIE. The Company does not consolidate a VIE in which it has a majority ownership interest when it is not considered the primary beneficiary. The Company evaluates its relationships with its VIEs on an ongoing basis to ensure that the Company continues to be the primary beneficiary. The Company is considered the primary beneficiary of Dave OD Funding I, LLC ("Dave OD"), as it has the power over the activities that most significantly impact the economic performance of Dave OD and has the obligation to absorb expected losses and the right to receive expected benefits that could be significant, in accordance with accounting guidance. As a result, the Company consolidated Dave OD and all intercompany accounts have been eliminated. The carrying value of Dave OD's assets and liabilities, after elimination of any intercompany transactions and balances are shown in the condensed consolidated balance sheets. The assets of Dave OD are restricted and may only be used to settle obligations of Dave OD.

Use of Estimates

The preparation of these condensed consolidated financial statements requires the Company to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the condensed consolidated financial statements, as well as the reported revenues and expenses incurred during the reporting periods. The Company's estimates are based on its historical experience and various other factors that the Company believes are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. The Company's critical accounting estimates and assumptions are evaluated on an ongoing basis including those related to the:

(i) Allowance for credit losses; and

(ii) Income taxes.

Actual results may differ from these estimates under different assumptions or conditions.

Revenue Recognition

Below is detail of operating revenues (*in thousands*):

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2024	**2023**	**2024**	**2023**
Service based revenue, net				
Processing fees, net	$ 58,659	$ 39,166	$ 152,850	$ 108,153
Tips	18,296	14,548	49,284	41,447
Subscriptions	6,333	5,119	18,127	16,150
Other	102	346	342	990
Transaction based revenue, net				
Interchange revenue, net	4,960	4,322	14,444	12,406
ATM revenue, net	747	584	2,317	1,879
Other	3,392	1,726	8,872	4,949
Total operating revenues, net	**$ 92,489**	**$ 65,811**	**$ 246,236**	**$ 185,974**

Service Based Revenue, Net

Service based revenue, net primarily consists of optional tips, optional processing fees, and subscriptions charged to Members, net of processor costs associated with ExtraCash originations. ExtraCash receivables are treated as financial receivables under ASC 310 Receivables ("ASC 310") and processing fees, net and tips are also accounted for in accordance with ASC 310.

Processing Fees, Net:

Processing fees apply when a Member requests expedited ExtraCash. At the Member's election, the Company expedites the funding of ExtraCash funds within hours of the ExtraCash approval, as opposed to the customary two or three business days for ExtraCash that is transferred via the ACH network. Processing fees are accounted for as non-refundable loan origination fees and are recognized as revenues over the average expected contractual term of its ExtraCash transactions.

Costs incurred by the Company to originate ExtraCash are treated as direct loan origination costs. These direct loan origination costs are netted against ExtraCash-related income over the average expected contractual term of an ExtraCash. Direct origination costs recognized as a reduction of ExtraCash-related income during the three and nine months ended September 30, 2024 were $1.1 million and $2.6 million, respectively. During the three and nine months ended September 30, 2023, the Company recognized direct origination costs as a reduction of ExtraCash-related income of $0.7 million and $2.7 million, respectively.

Tips:

The Company encourages, but does not contractually require its Members who receive ExtraCash to leave a discretionary tip. For accounting purposes, the Company treats tips as an adjustment of yield to ExtraCash and are recognized over the average expected contractual term of its ExtraCash receivables.

Subscriptions:

The Company accounts for subscriptions in accordance with ASC 606, *Revenue from Contracts with Customers* ("ASC 606"). Under ASC 606, the Company must identify the contract with a Member, identify the performance obligations in the contract, determine the transaction price, allocate the transaction price to the performance obligations in the contract and recognize revenue when (or as) the Company satisfies the performance obligations. For revenue sources that are within the scope of Topic 606, the Company fully satisfies its performance obligations and recognizes revenue in the period it is earned as services are rendered. Transaction prices are typically fixed, charged on a periodic basis or based on activity. Because performance obligations are satisfied as services are rendered and the transaction prices are fixed, there is little judgment involved in applying ASC 606 that significantly affects the determination of the amount and timing of revenue from contracts with the Company's Members.

Subscription fees are received on a monthly basis from Members who subscribe to the Company's application. The Company continually fulfills its obligation to each Member over the subscription term. The series of distinct services represents a single

performance obligation that is satisfied over time. The Company recognizes revenue ratably as the Member receives and consumes the benefits of the platform throughout the monthly contract period.

Price concessions granted to Members who have insufficient funds when subscription fees are due and not collected are forms of variable consideration under the Company's contracts with Members. For price concessions, the Company has elected, as an accounting policy, to account for price concessions for the month at the end of the reporting month based on the actual amounts collected from Members.

Other service based revenue consists of lead generation fees from the Company's Side Hustle advertising partners and revenue share from the Company's Surveys partners.

Transaction Based Revenue, Net

Transaction based revenue, net primarily consists of interchange and ATM revenues from the Company's Checking Product, net of certain interchange and ATM-related fees, fees earned from funding and withdrawal-related transactions, volume support from a certain co-branded agreement, fees earned related to the Rewards Product for Members who make debit card spending transactions at participating merchants and deposit referrals and are recognized at the point in time the transactions occur, as the performance obligations are satisfied and the variable consideration is not constrained. The Company earns interchange fees from Members spend on Dave-branded debit cards, which are reduced by interchange-related costs payable to fulfillment partners. Interchange revenue is remitted by merchants and represents a percentage of the underlying transaction value processed through a payment network. ATM fees earned from Member's usage out-of-network reduced by related ATM transaction costs during the three months and nine months ended September 30, 2024, were $0.7 million and $2.3 million, respectively. ATM fees earned from Member's usage out-of-network reduced by related ATM transaction costs during the three months and nine months ended September 30, 2023, were $0.6 million and $1.9 million, respectively. ATM-related fees recognized as a reduction of transaction based revenue during the three months and nine months ended September 30, 2024 were $0.5 million and $1.5 million, respectively. ATM-related fees recognized as a reduction of transaction based revenue during the three months and nine months ended September 30, 2023 were $0.5 million and $1.3 million, respectively.

Processing and Servicing Costs

Processing costs consist of amounts paid to third party processors for the recovery of ExtraCash, tips, processing fees and subscriptions. These expenses also include fees paid for services to connect Member's bank accounts to the Company's application. Except for processing and service fees associated with ExtraCash originations, which are recorded net against revenue, all other processing and service fees are expensed as incurred.

Cash and Cash Equivalents

The Company classifies all highly liquid instruments with an original maturity of three months or less as cash equivalents.

Restricted Cash

Restricted cash primarily represents cash held at financial institutions that is pledged as collateral for specific accounts that may become overdrawn.

Marketable Securities

Marketable securities consist of a money market mutual fund. The fair value of marketable securities is determined by quoted prices in active markets and changes in fair value are recorded in other (income) expense in the condensed consolidated statements of operations.

Investments

Investments consist of corporate bonds and notes, asset backed securities, and government securities and are classified as "available-for-sale" as the sale of such securities may be required prior to maturity to implement the Company's strategies. The fair value of investments is determined by quoted prices in active markets with unrealized gains and losses (other than credit related impairment) reported as a separate component of other comprehensive income. For securities with unrealized losses, any credit related portion of the loss is recognized in earnings. If it is more likely than not that the Company will be unable or does not intend to hold the security

to recovery of the non-credit related unrealized loss, the loss is recognized in earnings. Realized gains and losses are determined using the specific identification method and recognized in the condensed consolidated statements of comprehensive loss. Any related amounts recorded in accumulated other comprehensive income are reclassified to earnings (on a pre-tax basis).

ExtraCash Receivables

ExtraCash receivables include ExtraCash, fees and tips, net of certain direct origination costs and allowance for credit losses. Management's intent is to hold ExtraCash receivables until the earlier of repayment or payoff date. Members' ExtraCash receivables are treated as financial receivables under ASC 310.

ExtraCash extended to Members is not interest-bearing. The Company recognizes ExtraCash at the origination amount and does not use discounting techniques to determine present value of originations due to their short-term nature.

The Company does not provide modifications to ExtraCash and does not charge late fees.

Allowance for Credit Losses

ExtraCash receivables from contracts with Members as of the balance sheet dates are recorded at their original origination amounts, inclusive of outstanding processing fees and tips, and reduced by an allowance for expected credit losses. The Company pools its ExtraCash receivables, all of which are short-term (average term of approximately 11 days) in nature and arise from contracts with Members, based on shared risk characteristics to assess their risk of loss, even when that risk is remote. The Company uses an aging method and historical loss rates as a basis for estimating the percentage of current and delinquent ExtraCash receivables balances that will result in credit losses to derive the allowance for credit losses. The Company considers whether the conditions at the measurement date and reasonable and supportable forecasts about future conditions warrant an adjustment to its historical loss experience. In assessing such adjustments, the Company primarily evaluates current economic conditions, expectations of near-term economic trends and changes in customer payment terms, collection trends and cash collections subsequent to the balance sheet date. For the measurement dates presented herein, given its methods of collecting funds, and that the Company has not observed meaningful changes in its customers' payment behavior, it determined that its historical loss rates remain most indicative of its lifetime expected losses. The Company immediately recognizes an allowance for expected credit losses at the time of the ExtraCash origination. Adjustments to the allowance each period for changes in the estimate of lifetime expected credit losses are recognized in operating expenses—provision for credit losses in the condensed consolidated statements of operations.

When the Company determines that an ExtraCash receivable is not collectible, or after 120 days from origination has passed, the uncollectible amount is written-off as a reduction to both the allowance and the gross asset balance. Based on the average outstanding ExtraCash receivable term of approximately 11 days, ExtraCash receivables outstanding 12 or more days from origination may be considered past due. Subsequent recoveries are recorded when received and are recorded as a recovery of the allowance for expected credit losses. Any change in circumstances related to a specific Member ExtraCash receivables may result in an additional allowance for expected credit losses being recognized in the period in which the change occurs.

Internally Developed Software

Internally developed software is capitalized when preliminary development efforts are successfully completed, management has authorized and committed project funding, it is probable that the project will be completed, and the software will be used as intended. Capitalized costs consist of salaries and other compensation costs for employees incurred for time spent on upgrades and enhancements to add functionality to the software and fees paid to third-party consultants who are directly involved in development efforts. These capitalized costs are included on the condensed consolidated balance sheets as intangible assets, net. Other costs are expensed as incurred and included within other operating expenses in the condensed consolidated statements of operations. Capitalized costs for the three and nine months ended September 30, 2024, were $1.7 million and $5.5 million, respectively. Capitalized costs for the three and nine months ended September 30, 2023, were $1.8 million and $5.9 million, respectively.

Amortization of internally developed software commences when the software is ready for its intended use (i.e., after all substantial testing is complete). Internally developed software is amortized over its estimated useful life of 3 years.

The Company's accounting policy is to perform annual reviews of capitalized internally developed software projects to determine whether any impairment indicators are present as of December 31, or whenever a change in circumstances suggests an impairment indicator is present. If any impairment indicators are present, the Company will perform a recoverability test by comparing the sum of the estimated undiscounted cash flows attributed to the asset group to their carrying value. If the undiscounted cash flows expected to result from the remaining use of the asset (i.e., cash flows when testing recoverability) are less than the asset group's carrying value,

the Company will determine the fair value of the asset group and recognize an impairment loss as the amount by which the carrying value of the asset group exceeds its fair value. If based on the results of the recoverability test, no impairment is indicated as the remaining undiscounted cash flows exceed the carrying value of the software asset group, the carrying value of the asset group as of the assessment date is deemed fully recoverable. In addition, the Company evaluates the remaining useful life of an intangible asset that is being amortized each reporting period to determine whether events and circumstances warrant a revision to the remaining period of amortization. If the estimate of an intangible asset's remaining useful life is changed, the remaining carrying value of the intangible asset shall be amortized prospectively over that revised remaining useful life.

Property and Equipment

Property and equipment are stated at cost less accumulated depreciation. Property and equipment are recorded at cost and depreciated over the estimated useful lives ranging from 3 to 7 years using the straight-line method. Maintenance and repair costs are charged to operations as incurred and included within other operating expenses in the condensed consolidated statements of operations.

Impairment of Long-Lived Assets

The Company assesses the impairment of long-lived assets, primarily property and equipment and amortizable intangible assets, whenever events or changes in business circumstances indicate that carrying amounts of the assets may not be fully recoverable. If the sum of the expected undiscounted future cash flows from an asset is less than the carrying amount of the asset, the Company estimates the fair value of the assets. The Company measures the loss as the amount by which the carrying amount exceeds its fair value calculated using the present value of estimated net future cash flows.

Fair Value of Financial Instruments

ASC 820, Fair Value Measurement ("ASC 820"), provides a single definition of fair value and a common framework for measuring fair value as well as disclosure requirements for fair value measurements used in the condensed consolidated financial statements. Under ASC 820, fair value is determined based upon the exit price that would be received by a company to sell an asset or paid by a company to transfer a liability in an orderly transaction between market participants, exclusive of any transaction costs. Fair value measurements are determined by either the principal market or the most advantageous market. The principal market is the market with the greatest level of activity and volume for the asset or liability. Absent a principal market to measure fair value, the Company uses the most advantageous market, which is the market from which the Company would receive the highest selling price for the asset or pay the lowest price to settle the liability, after considering transaction costs. However, when using the most advantageous market, transaction costs are only considered to determine which market is the most advantageous and these costs are then excluded when applying a fair value measurement. ASC 820 creates a three-level hierarchy to prioritize the inputs used in the valuation techniques to derive fair values. The basis for fair value measurements for each level within the hierarchy is described below, with Level 1 having the highest priority and Level 3 having the lowest.

Level 1—Quoted prices in active markets for identical assets or liabilities.

Level 2—Observable inputs other than Level 1 quoted prices, such as quoted prices for similar assets and liabilities in active markets, quoted prices in markets that are not active for identical or similar assets and liabilities, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3—Valuations are based on inputs that are unobservable and significant to the overall fair value measurement of the assets or liabilities. Inputs reflect management's best estimate of what market participants would use in pricing the asset or liability at the measurement date. Consideration is given to the risk inherent in the valuation technique and the risk inherent in the inputs to the model.

Concentration of Risk

Financial instruments, which potentially subject the Company to concentrations of credit risk, principally consist of cash and cash equivalents, restricted cash, ExtraCash receivables, and accounts receivable. The Company's cash and cash equivalents and restricted cash in excess of the Federal Deposit Insurance Corporation ("FDIC") insured limits were $34.3 million at September 30, 2024 and $40.9 million at December 31, 2023, respectively. The Company's payment processors also collect cash on the Company's behalf and will hold these cash balances temporarily until they are settled the next business day. Also, the Company does not believe its marketable securities are exposed to any significant credit risk due to the quality and nature of the securities in which the money is held.

No Member individually exceeded 10% or more of the Company's ExtraCash receivables balance as of September 30, 2024 and December 31, 2023.

Leases

ASC 842, Leases ("ASC 842") requires lessees to recognize most leases on the condensed consolidated balance sheet with a corresponding right-of-use asset. Right-of-use assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease. Right-of-use assets and lease liabilities are recognized at the lease commencement date based on the estimated present value of fixed lease payments over the lease term. Leases are classified as financing or operating which will drive the expense recognition pattern. Lease payments on short-term leases are recognized as expense on a straight-line basis over the lease term. At the time of a lease abandonment, the operating lease right-of-use asset is derecognized, while the corresponding lease liability is evaluated by the Company based any remaining contractual obligations as of the lease abandonment date.

The Company leases office space under two separate leases, both of which are considered operating leases. Options to extend or terminate a lease are considered as part of calculating the lease term to the extent that the option is reasonably certain of exercise. The leases do not include the options to purchase the leased property. The depreciable life of assets and leasehold improvements are limited by the expected lease term. Covenants imposed by the leases include letters of credit required to be obtained by the lessee.

The incremental borrowing rate ("IBR") represents the rate of interest the Company would expect to pay on a collateralized basis to borrow an amount equal to the lease payments under similar terms. When determinable, the Company uses the rate implicit in the lease to determine the present value of lease payments. As the Company's leases do not provide an implicit rate, the Company uses its incremental borrowing rate based on the information available at the lease commencement date in determining the present value of lease payments.

Stock-Based Compensation

Stock Option Awards:

ASC 718, Compensation-Stock Compensation ("ASC 718"), requires the estimate of the fair value of all stock-based payments to employees, including grants of stock options, to be recognized in the statement of operations over the requisite service period. Under ASC 718, employee option grants are generally valued at the grant date and those valuations do not change once they have been established. The fair value of each option award is estimated on the grant date using the Black-Scholes Option Pricing Model. As allowed by ASC 718, the Company's estimate of expected volatility is based on its peer company average volatilities, including industry, stage of life cycle, size, and financial leverage. The risk-free rate for periods within the contractual life of the option is based on the U.S. Treasury yield curve in effect at the time of grant valuation. The Company recognizes forfeitures as they occur. Subsequent modifications to outstanding awards result in incremental cost if the fair value is increased as a result of the modification.

Restricted Stock Unit Awards:

Restricted stock units ("RSUs") are valued on the grant date. The fair value of the RSUs that vest based solely on a service condition is equal to the estimated fair value of the Company's Common Stock on the grant date. This compensation cost is recognized on a straight-line basis over the requisite service period for the entire award. For RSUs that contain both a market condition and a service condition, market volatility and other factors are taken into consideration in determining the grant date fair value and the related compensation expense is recognized on a straight-line basis over the requisite service period of each separately vesting tranche, regardless of whether the market condition is satisfied, provided that the requisite service has been provided. These costs are a component of stock-based compensation expense, presented within compensation and benefits in the condensed consolidated statements of operations. The Company recognizes forfeitures as they occur.

Performance-Based Restricted Stock Unit Awards:

Performance-based RSUs are valued on the grant date and the compensation cost is recognized over the requisite service period if and when the Company concludes it is probable that the performance metrics will be satisfied. The grant-date fair value of the awards are not subsequently remeasured; however, the Company reassesses the probability of vesting at each reporting period and records a cumulative adjustment to compensation expense based on the likelihood the performance metric will be achieved. These costs are a component of stock-based compensation expense, presented within compensation and benefits in the condensed consolidated statements of operations. The Company recognizes forfeitures as they occur.

Advertising Costs

Advertising costs are expensed as incurred. Advertising costs for the three months and nine months ended September 30, 2024 were $12.5 million and $32.3 million, respectively, and are presented within advertising and marketing within the condensed consolidated statements of operations. Advertising costs for the three and nine months ended September 30, 2023 were $13.9 million and $38.4 million, respectively.

Income Taxes

The Company follows ASC 740, Income Taxes ("ASC 740"), which requires recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the condensed consolidated financial statements or tax returns. Under this method, deferred tax assets and liabilities are based on the differences between the condensed consolidated financial statement and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. Deferred tax assets are reduced by a valuation allowance to the extent management concludes it is more-likely-than-not that the asset will not be realized.

The effective tax rate used for interim periods is the estimated annual effective tax rate, based on the current estimate of full year results, except that those taxes related to specific discrete events, if any, are recorded in the interim period in which they occur. The annual effective tax rate is based upon several significant estimates and judgments, including the estimated annual pre-tax income of the Company in each tax jurisdiction in which it operates, and the development of tax planning strategies during the year. In addition, the Company's tax expense can be impacted by changes in tax rates or laws and other factors that cannot be predicted with certainty. As such, there can be significant volatility in interim tax provisions.

ASC 740 provides that a tax benefit from an uncertain tax position may be recognized when it is more-likely-than-not that the position will be sustained in a court of last resort, based on the technical merits. If more-likely-than-not, the amount recognized is the largest amount of tax benefit that is greater than 50% likely of being realized on examination, including compromise settlements. For tax positions not meeting the more-likely-than-not threshold, no tax benefit is recorded. The Company has estimated $1.8 million and $1.3 million of uncertain tax positions as of September 30, 2024 and December 31, 2023, respectively, related to state income taxes and federal and state research tax credits.

The Company's policy is to recognize interest expense and penalties accrued on any unrecognized tax benefits as a component of income tax expense within the statement of operations. The Company recognized $0.004 million of interest expense and penalties as a component of income tax expense during both the nine months ended September 30, 2024 and 2023, respectively.

Segment Information

The Company determines its operating segments based on how its chief operating decision makers manage operations, make operating decisions, and evaluate operating performance. The Company has determined that the Chief Operating Decision Maker ("CODM") is a joint role shared by the Chief Executive Officer and Chief Financial Officer. Based upon the way the CODM reviews financial information and makes operating decisions and considering that the CODM reviews financial information on a consolidated basis for purposes of allocating resources and evaluating financial performance, the service-based and transaction-based operations constitute a single operating segment and reportable segment.

Net Income (Loss) Per Share Attributable to Stockholders

The Company has two classes of participating securities (Class A Common Stock and Class V Common Stock) issued and outstanding as of September 30, 2024. The rights, including the liquidation and dividend rights, of the holders of the Class A Common Stock and Class V Common Stock are identical, except with respect to voting.

Basic net income (loss) attributable to holders of Common Stock per share is calculated by dividing net income (loss) attributable to holders of Common Stock by the weighted-average number of shares outstanding.

Diluted net income (loss) per share attributable to holders of common stock is computed by dividing net income (loss) per share attributable to stockholders and the weighted-average number of shares outstanding and the effect of potentially dilutive stock options, warrants, and restricted stock using the treasury stock method.

The following table sets forth the computation of the Company's basic and diluted net income (loss) per share attributable to holders of common stock (*in thousands, except share data*):

	For the Three Months Ended September 30,		For the Nine Months ended September 30,	
	2024	2023	2024	2023
Numerator				
Net income (loss) attributed to common stockholders—basic and diluted	$ 466	$ (12,053)	$ 41,067	$ (48,696)
		-		
Denominator		-		
Weighted-average shares of common stock—basic	12,639,294	11,960,078	12,426,122	11,887,199
Dilutive effect of stock options	258,809	-	255,565	-
Dilutive effect of RSU	1,034,549	-	905,690	-
Weighted-average shares of common stock—diluted	13,932,652	11,960,078	13,587,377	11,887,199
Net income (loss) per share				
Basic	$ 0.04	$ (1.01)	$ 3.30	$ (4.10)
Diluted	$ 0.03	$ (1.01)	$ 3.02	$ (4.10)

The following potentially dilutive shares were excluded from the computation of diluted net income (loss) per share for the periods presented because including them would have been antidilutive:

	For the Three Months Ended September 30,		For the Nine Months ended September 30,	
	2024	2023	2024	2023
Equity incentive awards	86,354	2,408,298	613,956	2,408,298
Convertible debt	-	312,500	-	312,500
Total	**86,354**	**2,720,798**	**613,956**	**2,720,798**

The Company also excluded 11,444,235 public and private warrants and 49,653 earnout shares that were potentially dilutive from the computation of diluted net income (loss) for the three and nine month periods ended September 30, 2024 and 2023, respectively, as including them would have been antidilutive. Refer to Note 9 Warrant Liabilities and Note 13 Fair Value of Financial Instruments for further details.

Recent Accounting Pronouncements

Recently Issued Accounting Pronouncements Not Yet Adopted:

In November 2023, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2023-07, *Segment Reporting - Improvements to Reportable Segment Disclosures*. The amendments require disclosure of incremental segment information on an annual and interim basis. The amendments also require companies with a single reportable segment to provide all disclosures required by this amendment and all existing segment disclosures in Accounting Standards Codification 280, Segment Reporting. The amendments are effective for fiscal years beginning after December 15, 2023, and interim periods beginning after December 15, 2024. The Company expects the adoption of the standard to result in additional segment footnote disclosures.

In December 2023, the FASB issued ASU No. 2023-09, *Income Taxes - Improvements to Income Tax Disclosures*. The amendments require enhanced disclosures in connection with an entity's effective tax rate reconciliation, income taxes paid disaggregated by jurisdiction, and clarification on uncertain tax positions and related financial statement impacts. The amendments are effective for annual periods beginning after December 15, 2024. The Company does not expect the adoption of the amendments to have a significant impact on its financial statements.

In November 2024, the FASB issued ASU No. *2024-03*, *Disaggregation of Income Statement Expenses*. The new standard requires additional disclosure of the nature of the expenses included in the income statement, including disaggregation of the expense captions presented on the face of the income statement into specific categories. ASU *2024-03* is effective for fiscal years beginning after

December 15, 2026, with early adoption permitted, and may be applied retrospectively or prospectively. The Company is currently evaluating the impact of this standard on its financial statement disclosures.

Recently Adopted Accounting Pronouncements:

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments ("ASU 2016-13")*. ASU 2016-13 introduced a new credit loss methodology, the Current Expected Credit Losses ("CECL") methodology, which requires earlier recognition of credit losses, while also providing additional transparency about credit risk. The CECL methodology utilizes a lifetime "expected credit loss" measurement objective for the recognition of credit losses for loans, held-to maturity debt securities, trade receivables and other receivables measured at amortized cost at the time the financial asset is originated or acquired. Subsequent to the issuance of ASU 2016-13, the FASB issued several additional ASUs to clarify implementation guidance, provide narrow-scope improvements and provide additional disclosure guidance. The Company adopted this ASU on January 1, 2023 and determined that ASU 2016-13 had no material impact on the Company's condensed consolidated financial statements and related disclosures.

In March 2020, the FASB issued ASU No. 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*, which provides optional guidance for accounting for contracts, hedging relationships, and other transactions affected by reference rate reform if certain criteria are met. In December 2022, the FASB issued ASU No. 2022-06, Reference Rate Reform (Topic 848), Deferral of the Sunset Date of Topic 848. The amendments in this Update defer the sunset date of Topic 848 from December 31, 2022, to December 31, 2024, after which entities will no longer be permitted to apply the relief in Topic 848. The Company has evaluated the effect that the updated standard had on its internal processes, condensed consolidated financial statements, and related disclosures, and has determined that the adoption did not have a significant impact on its condensed consolidated financial statements and related disclosures.

Note 3 Marketable Securities

Below is a detail of marketable securities (*in thousands*):

	September 30, 2024	December 31, 2023
Marketable securities	$ 96	$ 952
Total	**$ 96**	**$ 952**

At September 30, 2024 and December 31, 2023, the Company's marketable securities consisted of investments in a publicly traded money market mutual fund. The underlying money market instruments were primarily comprised of certificates of deposit and financial company asset backed commercial paper. At September 30, 2024, the investment portfolio had a weighted-average maturity of 18 days. At December 31, 2023, the investment portfolio had a weighted-average maturity of 40 days. The gain recognized in connection with the investment in marketable securities for the three and nine months ended September 30, 2024 was $0.001 million and $0.08 million, respectively, and recorded as a component of interest income in the condensed consolidated statements of operations. The gain recognized in connection with the investment in marketable securities for the three and nine months ended September 30, 2023 was $0.04 million and $0.4 million, respectively, and recorded as a component of interest income in the condensed consolidated statements of operations.

Note 4 Investments

Below is a summary of investments, which are measured at fair value as of September 30, 2024 (*in thousands*):

	Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Corporate bonds	$ 6,867	$ 1	$ (58)	$ 6,810
Government securities	32,883	303	-	33,186
Total	**$ 39,750**	**$ 304**	**$ (58)**	**$ 39,996**

Below is a summary of investments, which are measured at fair value as of December 31, 2023 (*in thousands*):

	Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Corporate bonds	$ 69,087	$ 670	$ (345)	$ 69,412
Asset-backed securities	313	-	(1)	312
Government securities	43,177	338	(13)	43,502
Total	**$ 112,577**	**$ 1,008**	**$ (359)**	**$ 113,226**

The gross unrealized losses and fair values of available-for-sale investment securities that were in unrealized loss positions were as follows (*in thousands*):

	Less Than 12 Months		12 Months or More		Total	
	Fair Value	Unrealized Loss	Fair Value	Unrealized Loss	Fair Value	Unrealized Loss
September 30, 2024						
Corporate bonds	$ 3,808	$ (42)	$ 2,476	$ (16)	$ 6,284	$ (58)
Asset-backed securities	-	-	-	-	-	-
Government securities	-	-	-	-	-	-
Total	**$ 3,808**	**$ (42)**	**$ 2,476**	**$ (16)**	**$ 6,284**	**$ (58)**

	Less Than 12 Months		12 Months or More		Total	
	Fair Value	Unrealized Loss	Fair Value	Unrealized Loss	Fair Value	Unrealized Loss
December 31, 2023						
Corporate bonds	$ 9,271	$ (50)	$ 14,989	$ (295)	$ 24,261	$ (345)
Asset-backed securities	-	-	274	(1)	274	(1)
Government securities	3,813	(13)	-	-	3,813	(13)
Total	**$ 13,084**	**$ (63)**	**$ 15,263**	**$ (296)**	**$ 28,348**	**$ (359)**

The (loss) gain recorded in connection with the investments for the three and nine months ended September 30, 2024 was ($0.01) million and $0.8 million, respectively, and was recorded as a component of interest income in the condensed consolidated statements of operations. The gain recorded in connection with the investment for the three and nine months ended September 30, 2023 was $0.2 million and $0.5 million, respectively. Accrued interest of $0.1 million and $1.0 million is included in investments within the condensed consolidated balance sheets for the periods ended September 30, 2024 and 2023, respectively.

Unrealized losses on the available-for-sale investment securities as of September 30, 2024 and December 31, 2023 are primarily the result of increases in interest rates as a significant portion of the investments were purchased prior to the Federal Reserve commenced interest rate increases in 2022. The Company does not intend to sell nor anticipate that it will be required to sell these investments before recovery of the amortized cost basis. As such, unrealized losses were determined not to be related to credit losses and the Company did not record any credit-related impairment losses on the available-for-sale investment securities during the three and nine months ended September 30, 2024 and 2023.

As of September 30, 2024, the contractual maturities of available-for-sale investment securities were as follows (*in thousands*):

	Amortized Cost	Fair Value
Due in one year or less	$ 37,907	$ 38,173
Due after one year through five years	$ 1,843	$ 1,823
Total	**$ 39,750**	**$ 39,996**

Note 5 ExtraCash Receivables, Net

ExtraCash receivables, net, represent outstanding originations, tips, and processing fees, net of direct origination costs, less an allowance for credit losses.

Below is a detail of ExtraCash receivables, net as of September 30, 2024 (*in thousands*):

Days From Origination	Gross ExtraCash Receivables	Allowance for Credit Losses	ExtraCash Receivables, Net
1-10	$ 143,109	$ (2,438)	$ 140,671
11-30	23,714	(4,269)	19,445
31-60	7,957	(4,975)	2,982
61-90	6,173	(4,728)	1,445
91-120	5,713	(4,723)	990
Total	**$ 186,666**	**$ (21,133)**	**$ 165,533**

Below is a detail of ExtraCash receivables, net as of December 31, 2023 (*in thousands*):

Days From Origination	Gross ExtraCash Receivables	Allowance for Credit Losses	ExtraCash Receivables, Net
1-10	$ 98,553	$ (2,676)	$ 95,877
11-30	16,442	(4,020)	12,422
31-60	7,038	(4,576)	2,462
61-90	5,719	(4,470)	1,249
91-120	5,404	(4,568)	836
Total	**$ 133,156**	**$ (20,310)**	**$ 112,846**

The roll-forward of the allowance for credit losses is as follows (*in thousands*):

Opening allowance balance at January 1, 2024	**$**	**20,310**
Plus: provision for credit losses		37,988
Plus: amounts recovered		9,467
Less: amounts written-off		(46,632)
Ending allowance balance at September 30, 2024	**$**	**21,133**

Opening allowance balance at January 1, 2023	**$**	**24,501**
Plus: provision for credit losses		43,861
Plus: amounts recovered		9,422
Less: amounts written-off		(58,026)
Ending allowance balance at September 30, 2023	**$**	**19,758**

The provision for credit losses for the nine months ended September 30, 2024 was lower compared to the nine months ended September 30, 2023, due primarily to improved collections performance period over period, despite an increase of ExtraCash origination volume from approximately $2,596.9 million for the nine months ended September 30, 2023 compared to $3,596.2 million for the nine months ended September 30, 2024. The decrease in amounts written-off for the nine months ended September 30, 2024 compared to the nine months ended September 30, 2023 was also primarily a result of improved collections performance period over period.

Note 6 Intangible Assets, Net

The Company's intangible assets, net consisted of the following (*in thousands*):

		September 30, 2024			December 31, 2023		
	Weighted Average Useful Lives	Gross Carrying Value	Accumulated Amortization	Net Book Value	Gross Carrying Value	Accumulated Amortization	Net Book Value
Internally developed software	3.0 Years	$ 27,060	$ (13,103)	$ 13,957	$ 21,601	$ (8,461)	$ 13,140
Domain name	15.0 Years	121	(61)	60	121	(55)	66
Intangible assets, net		**$ 27,181**	**$ (13,164)**	**$ 14,017**	**$ 21,722**	**$ (8,516)**	**$ 13,206**

The future estimated amortization expenses as of September 30, 2024, were as follows (*in thousands*):

2024	$ 1,521
2025	5,763
2026	4,348
2027	2,351
Thereafter	34
Total future amortization	**$ 14,017**

Amortization expense for the three and nine months ended September 30, 2024 was $1.6 million and $4.7 million, respectively. Amortization expense for the three and nine months ended September 30, 2023 was $1.2 million and $3.3 million, respectively. No significant impairment charges were recognized related to long-lived assets for the for the three and nine months ended September 30, 2024 and 2023.

The Company did not incur any amortization expense related to any changes in useful life of its definite-lived intangible assets for the three and nine months ended September 30, 2024. Amortization expense related to the change in useful life of a certain definite-lived intangible asset for the three and nine months ended September 30, 2023, was $0 and $0.3 million, respectively.

Note 7 Accrued Expenses and Other Current Liabilities

Accrued Expenses

The Company's accrued expenses consisted of the following (*in thousands*):

	September 30, 2024	December 31, 2023
Accrued compensation	5,033	3,605
Accrued professional and program fees	$ 4,439	$ 4,208
Accrued charitable contributions	3,018	2,212
Accrued negative account balances	2,015	831
Sales tax payable	1,020	1,442
Income taxes payable	961	-
Other	625	328
Total	**$ 17,111**	**$ 12,626**

Accrued charitable contributions includes amounts the Company has pledged related to meal donations. The Company uses a portion of tips received to make a charitable cash donation to a third party who uses the funds to provide meals to those in need. For the three and nine months ended September 30, 2024, the Company pledged approximately $1.3 million and $3.2 million related to charitable donations, respectively. For the three and nine months ended September 30, 2023, the Company pledged approximately $0.9 million and $4.2 million related to charitable donations, respectively. These costs are expensed as incurred and are presented within other operating expenses in the condensed consolidated statements of operations.

Other Current Liabilities

The Company's other current liabilities consisted of the following (*in thousands*):

	September 30, 2024	December 31, 2023
Deferred transaction costs	$ 3,150	$ 3,150
Other	806	715
Total	**$ 3,956**	**$ 3,865**

Other current liabilities includes $3.2 million in deferred transaction costs associated with the transactions consummated on January 5, 2022 as contemplated by that certain Agreement and Plan of Merger, dated as of June 7, 2021 among VPC Impact Acquisition Holdings III, Inc. ("VPCC"), Dave Inc., a Delaware corporation ("Legacy Dave"), and other entities (the "Business Combination"). These transaction costs were also capitalized and included within additional paid-in capital in the condensed consolidated balance sheets.

Note 8 Convertible Note Payable

On March 21, 2022, the Company entered into a Convertible Note Purchase Agreement ("Purchase Agreement") with FTX Ventures Ltd. (the "Purchaser"), owner of FTX US ("FTX"), providing for the purchase and sale of a convertible note in the initial principal amount of $100.0 million (the "Note"). The Note bore interest at a rate of 3.00% per year (compounded semi-annually), payable semi-annually in arrears on June 30th and December 31st of each year. Interest may be paid in-kind or in cash, at the Company's option. Forty-eight months (the "Maturity Date") after the date of the initial issuance of the Note (the "Issuance Date"), the Company would pay the Purchaser the sum of (i) the outstanding principal amount of the Note, plus (ii) all accrued but unpaid interest thereon, plus (iii) all expenses incurred by the Purchaser (the "Redemption Price"). Payment of the Redemption Price on the Maturity Date will constitute a redemption of the Note in whole.

On January 29, 2024, the Company repurchased the $105.7 million outstanding balance of the Note as of January 29, 2024 for $71.0 million. The Company reduced the net carrying amount of debt by unamortized debt issuance costs of $0.03 million at the extinguishment date. The Company also incurred third-party costs totaling $1.3 million in conjunction with the settlement of the Note. The third-party costs are included in the reacquisition price and the gain on extinguishment of $33.4 million was calculated as the difference between the net carrying amount of debt and the reacquisition price.

Note 9 Warrant Liabilities

As of September 30, 2024, there were 6,344,021 public warrants ("Public Warrants") outstanding and 5,100,214 private placement warrants ("Private Warrants") outstanding. Public Warrants may only be exercised for a whole number of shares. No fractional Public Warrants were issued upon separation of the units into their component parts upon the closing of the Business Combination and only whole Public Warrants trade. The Public Warrants are exercisable, provided that the Company continues to have an effective registration statement under the Securities Act covering the shares of Class A Common Stock issuable upon exercise of the Public Warrants and a current prospectus relating to them is available (or the Company permits holders to exercise their Public Warrants on a cashless basis and such cashless exercise is exempt from registration under the Securities Act).

The Company filed a registration statement covering the shares of Class A Common Stock issuable upon exercise of the Public Warrants and the Private Warrants. If the Company's shares of Class A Common Stock are at the time of any exercise of a warrant not listed on a national securities exchange such that they satisfy the definition of a "covered security" under Section 18(b)(1) of the Securities Act, the Company may, at its option, require holders of Public Warrants who exercise their warrants to do so on a "cashless basis" in accordance with Section 3(a)(9) of the Securities Act and, in the event the Company so elects, it will not be required to file or maintain in effect a registration statement, and in the event the Company does not so elect, it will use its best efforts to register or qualify the shares under applicable blue sky laws to the extent an exemption is not available.

The Public Warrants and the Private Warrants have an exercise price of $368 per share, subject to adjustments and will expire five years after the completion of the Business Combination or earlier upon redemption or liquidation.

Redemption of Public Warrants when the price per share of Class A Common Stock equals or exceeds $576.00:

Once the Public Warrants become exercisable, the Company may redeem the outstanding Public Warrants for cash:

- in whole and not in part;

- at a price of $0.01 per warrant;
- upon a minimum of 30 days prior written notice of redemption; and if, and only if, the closing price of Class A Common Stock equals or exceeds $576.00 per share (as adjusted) for any 20 trading days within a 30-trading day period ending on the third trading day prior to the date on which the Company sends the notice of redemption to the warrant holders.

The Company will not redeem the Public Warrants as described above unless an effective registration statement under the Securities Act covering the Class A Common Stock issuable upon exercise of the warrants is effective and a current prospectus relating to those shares of Class A Common Stock is available throughout the 30-day redemption period.

Redemption of Public Warrants for when the price per share of Class A Common Stock equals or exceeds $320.00:

Once the Public Warrants become exercisable, the Company may redeem the outstanding Public Warrants:

- in whole and not in part;
- at $0.10 per warrant upon a minimum of 30 days' prior written notice of redemption provided that holders will be able to exercise their warrants on a cashless basis prior to redemption and receive that number of shares determined by reference to an agreed table based on the redemption date and the "fair market value" (as defined below) of the Class A Common Stock; and
- if, and only if, the closing price of Class A Common Stock equals or exceeds $320.00 per Public Share (as adjusted) for any 20 trading days within the 30-trading day period ending three trading days before the Company sends notice of redemption to the warrant holders.

If the Company calls the Public Warrants for redemption, management will have the option to require all holders that wish to exercise the Public Warrants to do so on a "cashless basis," as described in the warrant agreement. The exercise price and number of shares of Class A Common Stock issuable upon exercise of the warrants may be adjusted in certain circumstances including in the event of a stock dividend, or recapitalization, reorganization, merger or consolidation. However, the Public Warrants will not be adjusted for issuance of Class A Common Stock at a price below its exercise price. Additionally, in no event will the Company be required to net cash settle the Public Warrants.

The Private Warrants are identical to the Public Warrants, except that the Private Placement Warrants will be non-redeemable so long as they are held by VPC Impact Acquisition Holdings Sponsor III, LLC, which was the sponsor of VPCC and an affiliate of certain of VPCC's officers and directors prior to the Business Combination, (the "Sponsor") or its permitted transferees. If the Private Warrants are held by someone other than the Sponsor or its permitted transferees, the Private Warrants will be redeemable by the Company and exercisable by such holders on the same basis as the Public Warrants.

Contemporaneously with the execution of the Debt Facility, the Company issued warrants to the Lenders as consideration for entering into the Debt Facility, representing a loan commitment fee. The warrants vest and become exercisable based on the Company's aggregated draw on the Debt Facility in incremental $10.0 million tranches and terminate upon the earliest to occur of (i) the fifth anniversary of the occurrence of a qualified financing event and (ii) the consummation of a liquidity event. The holders of the warrants have the ability to exercise their right to acquire a number of common shares equal to 0.2% of the fully diluted equity of the Company as of the closing date ("Equity Closing Date") of the Company's next equity financing with proceeds of at least $40.0 million ("Qualified Financing Event") or immediately prior to the consummation of a liquidity event. The exercise price of the warrants is the greater of (i) 80% of the fair market value of each share of Common Stock at the Equity Closing Date and (ii) $120.0656 per share, subject to certain down-round adjustments. The warrants meet the definition of a derivative under ASC 815 and will be accounted for as a liability at fair value and subsequently remeasured to fair value at the end of each reporting period with the changes in fair value recorded in the condensed consolidated statement of operations. The initial offsetting entry to the warrant liability was an asset recorded to reflect the loan commitment fee. The loan commitment fee asset will be amortized to interest expense over the commitment period of four years. The Company estimated the fair value of the warrants at the issuance date to be $0.1 million using the Black-Scholes option-pricing model. Determining the fair value of these warrants under this model requires subjective assumptions. These estimates involve inherent uncertainties and the application of management's judgment.

Immediately prior to the close of the Business Combination, all, or 1,664,394 of the vested warrants were exercised and net settled for 14,087 shares of Legacy Dave's Class A Common Stock after applying the exchange ratio.

Note 10 Debt Facility

In January 2021, Dave OD Funding I, LLC (“Borrower”) entered into a delayed draw senior secured loan facility (the “Debt Facility”) with Victory Park Management, LLC (“Agent”), and allowed the Borrower to draw up to $100 million from various lenders (the “Lenders”) associated with Victory Park Management, LLC. The Debt Facility had an interest rate of 6.95% annually plus a base rate defined as the greater of the three-month London interbank offered rate ("LIBOR") as of the last business day of each calendar month and 2.55%. Interest is payable monthly in arrears. The Debt Facility contained certain financial covenants, including a requirement to maintain a minimum cash, cash equivalents, or marketable securities balance of $8.0 million.

On September 13, 2023, the Company executed the Third Amendment to the Debt Facility with the existing Lenders. The Third Amendment, among other things: (i) increases the secured loan facility commitment amount by $50.0 million to a total of $150.0 million; (ii) extends the maturity date of the Debt Facility from January 2025 to December 2026; (iii) adds a liquidity trigger threshold, measured as of the last day of any calendar month, equal to the lesser of (a) the trailing six-month EBITDA as of such date, (b) the product of (A) the trailing three-month EBITDA as of such date, multiplied by (B) two (2), and (c) zero ($0); (iv) increases the minimum liquidity threshold, a requirement to maintain a minimum cash, cash equivalents, or marketable securities balance, from $8.0 million to $15.0 million; (v) replaces LIBOR with the secured overnight financing rate ("SOFR") and updates interest rates to the base rate (or if greater, SOFR for such date for a 3-month tenor and 3.00%) plus 5.00% per annum on that portion of the aggregate outstanding principal balance that is less than or equal to $75.0 million, plus the base rate plus 4.50% per annum on that portion of the aggregate outstanding principal balance, if any, that is greater than $75.0 million; (vi) updates prepayment premiums for early or voluntary principal repayments; and (vii) the Company's guaranty (the limited guaranty was secured by a first-priority lien against substantially all of the Company's assets) of up to $25,000,000 of the Borrower's obligations under the Debt Facility has been terminated.

Payments of the loan draws are due at the following dates: (i) within five business days after the date of receipt by the Borrower of any net cash proceeds in excess of $0.25 million in the aggregate during any fiscal year from any asset sales (other than certain permitted dispositions), Borrower must prepay the loans or remit such net cash proceeds in an aggregate amount equal to 100% of such net cash proceeds; (ii) within five business days after the date of receipt by Borrower, or the Agent as loss payee, of any net cash proceeds from any destruction or taking, the Borrower must prepay the loans or remit such net cash proceeds in an aggregate amount equal to 100% of such net cash proceeds; (iii) within three business days after the date of receipt by Borrower of any net cash proceeds from the incurrence of any indebtedness of Borrower (other than with respect to permitted borrower indebtedness), the Borrower will prepay the loans or remit such net cash proceeds in an aggregate amount equal to 100% of such net cash proceeds; and (iv) (a) if extraordinary receipts are received by Borrower in the aggregate amount in any fiscal year in excess of $0.25 million or (b) if an event of default has occurred and is continuing at any time when any extraordinary receipts are received by Borrower, then within five business days of the receipt by Borrower of any such extraordinary receipts, the Borrower must prepay the loans or remit such net cash proceeds in an aggregate amount equal to (x) 100% of such extraordinary receipts in excess of $0.25 million in respect of clause (a) above and (y) 100% of such extraordinary receipts in respect of clause (b) above.

As of September 30, 2024 and December 31, 2023, the Company had drawn $75.0 million on the Debt Facility and had made no repayments.

The Third Amendment was accounted for as a debt modification and, accordingly, the Company capitalized $0.4 million of financing costs which will be recognized within the statement of operations evenly through maturity date of the Debt Facility, no gain or loss was recognized. As of September 30, 2024, the Company was in compliance with all covenants.

Note 11 Commitments and Contingencies

From time to time, the Company is subject to various legal proceedings and claims, either asserted or unasserted, that arise in the ordinary course of business. Other than as described below, management does not believe that any of these proceedings or claims will have a significant adverse effect on the Company’s business, financial condition, results of operations, or cash flows. However, legal proceedings and claims are subject to many factors that are difficult to predict, so there can be no assurance that, in the event of a material unfavorable result in one or more claims, the Company will not incur material costs.

1. Federal Trade Commission v. Dave, Inc. (filed November 5, 2024 in the United States District Court for the Central District of California)

In January 2023, the Company received a Civil Investigative Demand from the Federal Trade Commission (the "FTC") staff seeking information in connection with the sale, offering, advertising, marketing or other promotion of cash advance products and online financial services. In response, the Company cooperated with the FTC staff while seeking to engage constructively with the FTC to resolve this matter.

On August 21, 2024, the FTC staff sent the Company a proposed consent order and draft complaint, alleging that the Company had violated Section 5 of the Federal Trade Commission Act and certain provisions of the Restore Online Shoppers' Confidence Act related to the Company's platform and offering of the ExtraCash Product (the "Complaint"), and advising that it would recommend the filing of an enforcement action if the Company did not settle the FTC's claims. The Company engaged in good faith negotiations with the FTC staff to settle the claims but these negotiations were unsuccessful, and on November 5, 2024, the FTC filed the Complaint in the United States District Court for the Central District of California against the Company. The Complaint seeks a permanent injunction, monetary relief for an unspecified amount and "other relief as the court determines to be just and proper."

Although the Company believes that its practices have at all times been in compliance with applicable law, the outcome of any case in litigation is uncertain. Therefore, for the period ending September 30, 2024, the Company has recorded a $7 million litigation and settlement accrual for this matter. Significant changes in the accrual may be required in future periods as the case progresses and additional information becomes available. At this time, the Company is unable to reasonably predict the possible outcome of this matter due to, among other things, the fact that it raises difficult factual and legal issues and is subject to many uncertainties and complexities. There can be no assurance that the Company will be successful in the litigation, and the Company may incur a loss in excess of the amount accrued. The defense or resolution of this matter could involve significant monetary costs and have a material impact on the Company's business, financial results and operations.

2. Lopez v. Dave Inc. (filed July 15, 2022 in US District Court for the Northern District of California).

On July 10, 2024, the parties in the Lopez matter reached a settlement agreement in mediation. The settlement was paid in August 2024.

Note 12 Leases

In January 2019, the Company entered into a lease agreement with PCJW for office space located in Los Angeles, California. The lease term is seven years, beginning January 1, 2019 and ending December 31, 2025. The current monthly lease payment is $0.02 million, subject to an annual escalation of 5%.

In December 2018, the Company entered into a sublease agreement with PCJW, controlled by Company's founders (including the Company's CEO), for general office space next to the aforementioned leased property in Los Angeles, California. The lease term was five years subject to early termination by either party, beginning November 2018 and ending October 2023. In November 2023, the Company extended the sublease for five more years ending October 2028. Under the terms of the sublease, the current monthly rent is $0.006 million, subject to an annual escalation of 4%.

All leases were classified as operating and operating lease expenses are presented within Other operating expenses in the condensed consolidated statements of operations. The Company does not have any finance leases or sublease arrangements where the Company is the sublessor. The Company's leasing activities are as follows (*in thousands*):

	For the Nine Months Ended	
	September 30, 2024	**September 30, 2023**
Operating lease cost	$ 260	$ 247
Short-term lease cost	-	8
Total lease cost	**$ 260**	**$ 255**

	For the Nine Months Ended	
	September 30, 2024	September 30, 2023
Other information:		
Cash paid for operating leases	$ 276	$ 263
Weighted-average remaining lease term - operating lease	2.46	2.23
Weighted-average discount rate - operating lease	10%	10%

The future minimum lease payments as of September 30, 2024, were as follows (*in thousands*):

Year	Related-Party Commitment
2024 (remaining)	$ 92
2025	386
2026	79
Thereafter	155
Total minimum lease payments	**$ 712**
Less: imputed interest	(80)
Total lease liabilities	**$ 632**

Note 13 Fair Value of Financial Instruments

The following are the major categories of assets and liabilities measured at fair value on a recurring basis as of September 30, 2024 and December 31, 2023, using quoted prices in active markets for identical assets (Level 1), significant other observable inputs (Level 2), and significant unobservable inputs (Level 3) (*in thousands*):

September 30, 2024	**Level 1**	**Level 2**	**Level 3**	**Total**
Assets				
Marketable securities	$ 96	$ —	$ —	$ 96
Investments	—	39,996	—	39,996
Total assets	**$ 96**	**$ 39,996**	**$ —**	**$ 40,092**
Liabilities				
Warrant liabilities - public warrants	$ 317	$ —	$ —	$ 317
Warrant liabilities - private warrants	—	—	294	294
Earnout liabilities	—	—	147	147
Total liabilities	**$ 317**	**$ —**	**$ 441**	**$ 758**

December 31, 2023	**Level 1**	**Level 2**	**Level 3**	**Total**
Assets				
Marketable securities	$ 952	$ —	$ —	$ 952
Investments	—	113,226	—	113,226
Total assets	**$ 952**	**$ 113,226**	**$ —**	**$ 114,178**
Liabilities				
Warrant liabilities - public warrants	$ 97	$ —	$ —	$ 97
Warrant liabilities - private warrants	—	—	105	105
Earnout liabilities	—	—	31	31
Total liabilities	**$ 97**	**$ —**	**$ 136**	**$ 233**

The Company had no assets or liabilities measured at fair value on a non-recurring basis as of September 30, 2024 and December 31, 2023.

The Company also has financial instruments not measured at fair value. The Company has evaluated cash (Level 1), restricted cash (Level 1), accounts payable (Level 2), accrued expenses (Level 2) and ExtraCash receivables (Level 3) and believes the carrying value approximates the fair value due to the short-term nature of these balances. The fair value of the debt facility (Level 2) approximates its carrying value.

Marketable Securities:

The Company evaluated the quoted market prices in active markets for its marketable securities and has classified its securities as Level 1. The Company's investments in marketable securities are exposed to price fluctuations. The fair value measurements for the securities are based upon the quoted prices of similar items in active markets multiplied by the number of securities owned.

Investments:

The following describes the valuation techniques used by the Company to measure the fair value of investments held as of September 30, 2024 and 2023.

U.S. Government Securities

The fair value of U.S. government securities is estimated by independent pricing services who use computerized valuation formulas to calculate current values. U.S. government securities are categorized in Level 2 of the fair value hierarchy.

Corporate Bonds and Notes

The fair value of corporate bonds and notes is estimated by independent pricing services who use computerized valuation formulas to calculate current values. These securities are generally categorized in Level 2 of the fair value hierarchy or in Level 3 when market-based transaction activity is unavailable and significant unobservable inputs are used.

Asset-Backed Securities

The fair value of these asset-backed securities is estimated by independent pricing services who use computerized valuation formulas to calculate current values. These securities are generally categorized in Level 2 of the fair value hierarchy or in Level 3 when market-based transaction activity is unavailable and significant unobservable inputs are used.

Public Warrants:

As discussed further in Note 9, Warrant Liabilities, in January 2022, upon completion of the Business Combination, public warrants were automatically converted to warrants to purchase Common Stock of the Company. These public warrants met the definition of a derivative under ASC 815, and due to the terms of the warrants, were required to be liability classified. This warrant liability was initially recorded as a liability at fair value, with the offsetting entry recorded as a non-cash expense within the statement of operations. The derivative liability was subsequently recorded at fair value at each reporting period, with changes in fair value reflected in earnings. The loss related to the change in fair value of the public warrant liability for the three and nine months ended September 30, 2024 was $0.1 million and $0.2 million, respectively, which is presented within changes in fair value of public warrant liability in the condensed consolidated statements of operations.

A roll-forward of the Level 1 public warrant liability is as follows (*in thousands*):

Opening value at January 1, 2024	**$**	**97**
Change in fair value during the period		220
Ending value at September 30, 2024	**$**	**317**

Private Warrants:

As discussed further in Note 9, Warrant Liabilities, in January 2022, upon completion of the Business Combination, private warrants were automatically converted to warrants to purchase Class A Common Stock of the Company. These private warrants met the definition of a derivative under ASC 815, and due to the terms of the warrants, were required to be liability classified. This warrant liability was initially recorded as a liability at fair value, with the offsetting entry recorded as a non-cash expense within the condensed consolidated statement of operations. The derivative liability was subsequently recorded at fair value at each reporting period, with changes in fair value reflected in earnings. The loss related to the change in fair value of the private warrant liability for the three and nine months ended September 30, 2024 was $0.1 million and $0.2 million, respectively, which is presented within changes in fair value of private warrant liabilities in the condensed consolidated statements of operations.

A roll-forward of the Level 3 private warrant liability is as follows (*in thousands*):

Opening value at January 1, 2024	**$**	**105**
Change in fair value during the period		189
Ending value at September 30, 2024	**$**	**294**

The Company used a Black-Scholes option pricing model to determine the fair value of the private warrant liability. The following table presents the assumptions used to value the private warrant liability for the three months ended September 30, 2024:

Exercise price	$	368
Expected volatility		79.9%
Risk-free interest rate		3.64%
Remaining term		2.26 years
Dividend yield		0%

Earnout Shares Liability:

As part of the reverse recapitalization, 49,563 shares of Class A Common Stock held by founders of VPCC are subject to forfeiture if the vesting condition is not met over the five year term following the closing date of the Business Combination (“Founder Holder Earnout Shares”). These Founder Holder Earnout Shares were initially recorded as a liability at fair value and subsequently recorded at fair value at each reporting period, with changes in fair value reflected in earnings. The (gain)/loss related to the change in fair value of the Founder Holder Earnout Shares liabilities for the three and nine months ended September 30, 2024 was $(0.02) million and $0.1

million, respectively, which are presented within changes in fair value of earnout liabilities in the condensed consolidated statements of operations.

A roll-forward of the Level 3 Founder Holder Earnout Shares liability is as follows (*in thousands*):

Opening value at January 1, 2024	**$**	**31**
Change in fair value during the period		116
Ending value at September 30, 2024	**$**	**147**

The Company used a Monte Carlo Simulation Method to determine the fair value of the Founder Holder Earnout Shares liability. The following table presents the assumptions used to value the Founder Holder Earnout Shares liability for the three months ended September 30, 2024:

Exercise price	$400-$480
Expected volatility	72.1%
Risk-free interest rate	3.6%
Remaining term	2.26 years
Dividend yield	0%

There were no other assets or liabilities that were required to be measured at fair value on a recurring basis as of September 30, 2024 and December 31, 2023.

Note 14 Stockholders' Equity

Preferred Stock

As of September 30, 2024, no shares of preferred stock were outstanding, and the Company has no present plans to issue any shares of preferred stock.

Pursuant to the terms of the Company's amended and restated certificate of incorporation, shares of preferred stock may be issued from time to time in one or more series. The Company's Board of Directors is authorized to fix the voting rights, if any, designations, powers and preferences, the relative, participating, optional or other special rights, and any qualifications, limitations and restrictions thereof, applicable to the shares of each series of preferred stock. The Company's Board of Directors is able to, without stockholder approval, issue preferred stock with voting and other rights that could adversely affect the voting power and other rights of the holders of the common stock and could have anti-takeover effects. The ability of the Company's Board of Directors to issue preferred stock without stockholder approval could have the effect of delaying, deferring or preventing a change of control or the removal of existing management.

Class A and Class V Common Stock

The Company's Board of Directors has authorized two classes of common stock, Class A Common Stock and Class V Common Stock. The Company had authorized 500,000,000 and 100,000,000 shares of Class A Common Stock and Class V Common Stock, respectively. Shares of Class V Common Stock have 10 votes per share, while shares of Class A Common Stock have one vote per share. The holders of shares of Class A Common Stock and Class V Common Stock will at all times vote together as a single class on all matters (including the election of directors) submitted to a vote of the Company's stockholders. Shares of Class V Common Stock are convertible into shares of Class A Common Stock on a one-to-one basis at the option of the holders of Class V Common Stock at any time upon written notice to the Company. As of September 30, 2024, the Company had 11,242,338 and 1,514,082 shares of Class A Common Stock and Class V Common Stock issued, respectively. As of September 30, 2024, the Company had 11,192,775 and 1,514,082 shares of Class A Common Stock and Class V Common Stock outstanding, respectively.

Note 15 Stock-Based Compensation

In 2017, the Company's Board of Directors adopted the Dave Inc. 2017 Stock Plan (the "2017 Plan"). The 2017 Plan authorized the award of stock options, restricted stock, and restricted stock units. On January 4, 2022, the stockholders of the Company approved the 2021 Equity Incentive Plan (the "2021 Plan"). The 2021 Plan was previously approved, subject to stockholder approval, by the Company's Board of Directors on January 4, 2022. Upon the consummation of the Business Combination with VPCC, the 2017 Plan

was terminated and replaced by the 2021 Plan. The maximum term of stock options granted under the 2021 Plan is 10 years and the awards generally vest over a four-year period.

The Company recognized $13.4 million and $27.2 million of stock-based compensation expense arising from stock option, restricted stock unit grants and performance-based restricted stock unit grants which is recorded as a component of compensation and benefits in the condensed consolidated statements of operations for the three and nine months ended September 30, 2024, respectively. The Company recognized $6.7 million and $20.1 million of stock based compensation expense arising from stock option and restricted stock unit grants for the three and nine months ended September 30, 2023, respectively.

Stock Options:

Management has valued stock options at their date of grant utilizing the Black-Scholes option pricing model. The fair value of the underlying shares was estimated by using a number of inputs, including recent arm's length transactions involving the sale of the Company's common stock.

Expected term—The expected term represents the period of time that options are expected to be outstanding. As the Company does not have sufficient historical exercise behavior, it determines the expected life assumption using the simplified method, which is an average of the contractual term of the option and its vesting period.

Risk free interest rate—The risk-free interest rate is based on the implied yield available on U.S. Treasury issues with an equivalent term approximating the expected life of the options depending on the date of the grant and expected life of the options.

Expected dividend yield—The Company bases the expected dividend yield assumption on the fact that it has never paid cash dividends and has no present intention to pay cash dividends.

Expected volatility—Due to the Company's limited operating history and lack of company-specific historical or implied volatility, the expected volatility assumption is based on historical volatilities of a peer group of similar companies whose share prices are publicly available. The Company identified a group of peer companies and considered their historical stock prices. In identifying peer companies, the Company considered the industry, stage of life cycle, size, and financial leverage of such other entities.

Activity with respect to stock options is summarized as follows:

	Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (years)	Aggregate Intrinsic Value (in thousands)
Options outstanding, January 1, 2024	**766,829**	$ 14.10	6.3	$ 1,148
Granted	-	$ -		
Exercised	(133,891)	$ 6.68		
Forfeited	(6,389)	$ 6.34		
Expired	(3,600)	$ 5.18		
Options outstanding, September 30, 2024	**622,949**	$ 15.82	6.0	15,036
Nonvested options, September 30, 2024	366,597	$ 22.77	6.4	6,303
Vested and exercisable, September 30, 2024	**256,352**	$ 5.90	5.4	8,732

At September 30, 2024, total estimated unrecognized stock-based compensation cost related to unvested stock options prior to that date was $2.9 million, which is expected to be recognized over a weighted-average remaining period of 3.0 years.

On March 3, 2021, the Company granted the Chief Executive Officer stock options to purchase up to 358,001 shares of Common Stock in nine tranches. Each of the nine tranches contain service, market and performance conditions. The market conditions relate to the achievement of certain specified price targets. Vesting commences on the grant date; however, no compensation charges are recognized until the service and performance condition are probable, which is upon the completion of a liquidity event, the achievement of specified price targets for each tranche of shares, and continuous employment. Upon the completion of the Business Combination, the performance condition was met and the Company recorded a cumulative stock-based compensation expense of $1.9 million. The options have a strike price of $23.18 per share. The Company determined the fair value of the options on the grant date to be $10.5 million using a Monte Carlo simulation with key inputs and assumptions such as stock price, term, dividend yield, risk-free

interest rate, and volatility. The derived service periods determined by the valuation for each of the nine tranches range from approximately three years to approximately seven years. Each tranche will be expensed monthly over the derived service period unless vesting conditions for a particular tranche are met, at which point all remaining compensation charges related to that particular tranche will be expensed in the period in which the vesting conditions were met.

The following table presents the key inputs and assumptions used to value the options granted to the Chief Executive Officer on the grant date:

Remaining term	10.0 years
Risk-free interest rate	1.5 %
Expected dividend yield	0.0 %
Expected volatility	40.0 %

Stock Option Repricing:

In April 2023, the Company's Board of Directors approved a repricing of certain previously granted and still outstanding vested and unvested stock option awards held by eligible employees, which was approved by stockholders on June 9, 2023. As a result, the exercise price for these awards was lowered to $5.18 per share, which was the average per share closing price of the Company's Class A Common Stock as reported on the Nasdaq Global Stock Market for the 30 trading days ending on and including June 9, 2023. No other terms of the repriced stock options were modified, and the repriced stock options will continue to vest according to their original vesting schedules and will retain their original expiration dates. As a result of the repricing, 134,931 vested and unvested stock options outstanding as of June 9, 2023, with original exercise prices ranging from $22.09 to $23.18, were repriced.

The repricing on June 9, 2023 resulted in incremental stock-based compensation expense of $0.2 million, of which $0.1 million related to vested stock option awards was expensed on the repricing date. The remaining $0.1 million related to unvested stock option awards is being amortized on a straight-line basis over the weighted-average vesting period of those awards of approximately 1.3 years as of June 9, 2023.

In September 2023, the Company's Board of Directors approved a repricing of certain previously granted and still outstanding vested and unvested stock option awards held by eight remaining eligible employees excluded from the aforementioned June 9th repricing. As a result, the exercise price for these awards was lowered to $7.23 per share, which was the average per share closing price of the Company's Class A Common Stock as reported on the Nasdaq Global Stock Market for the 30 trading days ending on and including September 13, 2023. No other terms of the repriced stock options were modified, and the repriced stock options will continue to vest according to their original vesting schedules and will retain their original expiration dates. As a result of the repricing, 200,571 vested and unvested stock options outstanding as of September 13, 2023, with original exercise prices ranging from $22.09 to $23.18, were repriced.

The repricing on September 13, 2023 resulted in incremental stock-based compensation expense of $0.2 million, of which $0.17 million related to vested stock option awards was expensed on the repricing date. The remaining $0.07 million related to unvested stock option awards is being amortized on a straight-line basis over the weighted-average vesting period of those awards of approximately 1.0 years as of September 13, 2023.

Restricted Stock Units:

Activity with respect to RSUs is summarized as follows:

	Shares		Weighted-Average Grant-Date Fair Value
Outstanding shares at January 1, 2024	**1,726,639**	$	23.10
Granted	501,062	$	32.48
Vested	(424,711)	$	34.14
Forfeited	(518,737)	$	11.44
Outstanding shares at September 30, 2024	**1,284,253**	$	29.73

At September 30, 2024, total estimated unrecognized stock-based compensation cost related to nonvested RSUs was approximately $32.3 million, which is expected to be recognized over a weighted-average period of 2.2 years.

During the quarter ended March 31, 2023, the Company granted 629,454 RSUs to certain employees in six tranches. Each of the six tranches contain service and market conditions. The market conditions relate to the achievement of certain specified price targets. Vesting commences on the grant date and the Company determined the fair value of the RSUs on the grant date to be approximately $3.0 million using a Monte Carlo simulation with key inputs and assumptions such as stock price, term, risk-free interest rate, and volatility. The derived service periods determined by the valuation for each of the six tranches range from approximately two years to approximately three years. Each tranche will be expensed monthly over the derived service period unless vesting conditions for a particular tranche are met, at which point all remaining compensation charges related to that particular tranche will be expensed in the period in which the vesting conditions were met.

The following table presents the key inputs and assumptions used to value the RSUs that contain service and market conditions on the grant date:

Remaining term	5.0 years
Risk-free interest rate	3.5%
Expected volatility	79.7%

During October 2023, the Company granted 71,844 RSUs to certain employees in six tranches. Each of the six tranches contain service and market conditions. The market conditions relate to the achievement of certain specified price targets. Vesting commences on the grant date and the Company determined the fair value of the RSUs on the grant date to be approximately $0.2 million using a Monte Carlo simulation with key inputs and assumptions such as stock price, term, risk-free interest rate, and volatility. The derived service periods determined by the valuation ranges from approximately two years to approximately three years. Each grant will be expensed monthly over the derived service period unless vesting conditions for a particular grant are met, at which point all remaining compensation charges related to that particular grant will be expensed in the period in which the vesting conditions were met.

The following table presents the key inputs and assumptions used to value the RSUs granted during October 2023 that contain service and market conditions on the grant date:

Remaining term	4.2 years
Risk-free interest rate	4.9%
Expected volatility	87.6%

During the quarter ended June 30, 2024, the Company's Board of Directors approved a modification to the price targets in the market conditions and the addition of alternative performance conditions for 333,275 unvested RSUs. The modification of the unvested RSUs resulted in an incremental stock-based compensation expense of $1.0 million, which will be expensed monthly over the derived service period. The weighted average modification-date fair value of the RSUs was $5.36 per award. The Company determined the fair value of the RSUs on the modification date using a Monte Carlo simulation with key inputs and assumptions such as stock price, term, risk-free interest rate, and volatility. The derived service periods determined by the valuation range from approximately one year to approximately two years. The RSUs will be expensed monthly over the derived service period unless vesting conditions for a particular tranche are met, at which point all remaining compensation charges will be expensed in the period in which the vesting conditions were met. As a result of the modification, the RSUs are now classified as performance-based RSUs and included in the activity table below.

The following table presents the key inputs and assumptions used to value the RSUs modified during the quarter ended June 30, 2024:

Remaining term	3.7 years
Risk-free interest rate	4.7%
Expected volatility	71.7%

During the quarter ended September 30, 2024, the Company's Board of Directors approved a modification to the price targets in the market conditions and the addition of alternative performance conditions for 50,000 unvested RSUs and during the quarter the Company achieved the performance conditions. The modification and achievement of the performance conditions resulted in an incremental cumulative stock-based compensation expense of approximately $0.4 million. As a result of the modification, the RSUs are now classified as performance-based RSUs and included in the activity table below. The 50,000 performance-based RSUs were subject to vesting as of September 30, 2024 and will be considered vested and subsequently issued based upon the achievement of the remaining service requirement as outlined in the award agreements.

Performance-Based Restricted Stock Units:

The Company grants performance-based RSUs to certain executives and employees as part of its long-term incentive plan. The performance-based RSUs are subject to the attainment of defined performance and service conditions, such as the Company's trailing twelve month adjusted EBITDA and specific share price targets, both subject to continued employment with the Company through certain dates. The actual number of shares subject to the award is determined at the end of the performance period and may range from 0% to 150% of the target shares granted depending upon the terms of the award.

Activity with respect to Performance-Based RSUs is summarized as follows:

	Shares	Weighted-Average Grant-Date Fair Value
Outstanding shares at January 1, 2024	-	$ -
Granted	516,316	$ 34.14
Vested	-	$ -
Forfeited	(15,188)	$ 33.90
Outstanding shares at September 30, 2024	**501,128**	$ 34.14

During the quarter ended September 30, 2024, the Company achieved certain performance conditions as outlined in its grant agreements and recorded a cumulative stock-based compensation expense of approximately $5.6 million. Additionally, a total of 318,087 performance-based RSUs were subject to vesting as of September 30, 2024 and will be considered vested and subsequently issued to participants based upon the achievement of the remaining service requirements as outlined in the award agreements.

At September 30, 2024, total estimated unrecognized stock-based compensation cost related to nonvested performance-based RSUs was approximately $9.3 million, which is expected to be recognized over a weighted-average period of 1.2 years.

Note 16 Related-Party Transactions

Leasing Arrangements

During each of the three and nine months ended September 30, 2024, the Company paid $0.1 million and $0.3 million, respectively, under lease agreements with PCJW, which is controlled by the Company's founders (including the Company's current CEO), for general office space in Los Angeles, California. During the three and nine months ended September 30, 2023, the Company paid $0.1 million and $0.2 million, respectively under the lease agreements with PCJW.

The following is a schedule of future minimum rental payments as of September 30, 2024 under Company’s sublease for the properties located in Los Angeles, California, signed with PCJW (*in thousands*):

Year	Related-Party Commitment
2024 (remaining)	$ 92
2025	386
2026	79
Thereafter	155
Total minimum lease payments	**$ 712**
Less: imputed interest	(80)
Total lease liabilities	**$ 632**

The related-party components of the lease right-of-use assets, lease liabilities, short-term, and lease liabilities, long-term are presented as part of the right-of-use asset and lease liability on the condensed consolidated balance sheets.

Debt Facility

Brendan Carroll, a Senior Partner at Victory Park Capital Advisors, LLC ("VPC"), joined the board of directors of the Company upon closing of the Business Combination. Interest expense related to the Debt Facility totaled $2.0 million and $5.9 million for the three

and nine months ended September 30, 2024, respectively. For more information about the Debt Facility with VPC, refer to Note 10, Debt Facility.

Legal Services

The law firm of Mitchell Sandler LLC, of which the Company's director Andrea Mitchell is a partner, provided legal services to the Company, which totaled $0.6 million and $1.0 million for the three and nine months ended September 30, 2024, respectively.

Note 17 401(k) Savings Plan

The Company maintains a 401(k) savings plan for the benefit of its employees. Employees can defer up to 90% of their compensation subject to fixed annual limits. All current employees are eligible to participate in the 401(k) savings plan. Beginning January 2021, the Company began matching contributions to the 401(k) savings plan equal to 100% of the first 4% of wages deferred by each participating employee. The Company incurred expenses for employer matching contributions of $0.5 million and $1.5 million for the three and nine months ended September 30, 2024, respectively, and $0.5 million and $1.6 million for the three and nine months ended September 30, 2023, respectively.

Note 18 Subsequent Events

Subsequent events are events or transactions that occur after the condensed consolidated balance sheet date, but before the condensed consolidated financial statements are available to be issued. The Company recognizes in the condensed consolidated financial statements the effects of all subsequent events that provide additional evidence about conditions that existed at the date of the condensed consolidated balance sheet, including the estimates inherent in the process of preparing the condensed consolidated financial statements. The Company’s condensed consolidated financial statements do not recognize subsequent events that provide evidence about conditions that did not exist at the date of the condensed consolidated balance sheet but arose after the condensed consolidated balance sheet date and before the condensed consolidated financial statements were available to be issued.

On October 18, 2024, the Company amended its Debt Facility with Victory Park Management, LLC. The amendment increased the advance rate within the facility by 250 basis points and it adjusted eligibility criteria and concentration limits to expand borrowing capacity. There is no impact to the cost of funds on the $75 million outstanding as of September 30, 2024, and the cost of any future draws will remain at the same spread over the benchmark rate. The facility size and maturity remain unchanged at $150 million and December 15, 2026, respectively.

On November 5, 2024, the Federal Trade Commission (the “FTC”) filed a civil complaint against us alleging violations of Section 5(a) of the FTC Act and the Restore Online Shoppers’ Confidence Act related to our platform and offering of our ExtraCash product. The complaint seeks a permanent injunction, monetary relief for an unspecified amount and “other relief as the court determines to be just and proper.” Given the outcome of any case in litigation is uncertain, for the period ending September 30, 2024, the Company has recorded a $7 million litigation and settlement accrual for this matter. Significant changes in the accrual may be required in future periods as the case progresses and additional information becomes available.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

The following discussion and analysis of the Company's financial condition and results of operations should be read in conjunction with our condensed consolidated financial statements and the notes related thereto which are included elsewhere in this report. Certain information contained in the discussion and analysis set forth below includes forward-looking statements. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of many factors, including those set forth under "Cautionary Note Regarding Forward-Looking Statements," "Risk Factors" and elsewhere in our Annual Report on Form 10-K for the year ended December 31, 2023 filed with the Securities and Exchange Commission (the "SEC") on March 5, 2024 (the "Annual Report") *and in our subsequent Quarterly Reports on Form 10-Q.*

Overview

In the story of David vs. Goliath, the small underdog is able to outsmart and defeat his larger adversary. This is the spirit behind the name "Dave." We have built an integrated financial services online platform that provides millions of Americans with seamless access to a variety of intuitive financial products at a fraction of the cost and with much higher speed to value than that of the legacy financial services incumbents, such as traditional banks and other financial institutions. Our mission is to build products that level the financial playing field. Our near-term strategy is focused on delivering a superior banking experience for anyone living paycheck to paycheck.

Based on our observation and analysis of Member data, legacy financial institutions charge high fees for consumer banking and other financial services products, which disproportionately burdens tens of millions of Americans who can least afford them. We see this dynamic playing out with our Members who we believe are on average paying between $300-$400 in overdraft, maintenance and other fees to their existing bank for basic checking services.

Further, we see a significant opportunity to address the broader short-term credit market. According to a 2024 report by The Financial Health Network ("FHN"), legacy financial institutions charge approximately $40 billion in fees annually. The FHN estimates that financially "coping" and "vulnerable" populations pay over $200 billion a year in fees and interest for access to short-term credit. Our prospective Member opportunity is also significant. We estimate that our total addressable market consists of between 170 million and 190 million Americans who are in need of financial stability and are either not served or underserved by legacy financial institutions.

Dave offers a suite of innovative financial products aimed at helping our Members improve their financial health. To help Members avoid punitive overdraft fees and access short-term liquidity, Dave offers, through Evolve, its flagship 0% interest ExtraCash product. Through Dave Banking, we provide a digital checking account experience, seamlessly integrated with ExtraCash, with no hidden fees. With a Dave Banking account, Members have access to valuable tools for building long-term financial health, such as Goals savings accounts and customizable automatic round-up savings on debit spend transactions. We also help Members generate extra income for spending or emergencies through high APY savings rates, our Side Hustle product, where we present Members with supplemental work opportunities, and through our Surveys product, where Members can earn supplemental income by taking surveys. Our budgeting tool helps Members manage their upcoming bills to avoid overspending.

We have only begun to address the many inequities in financial services, but our progress to date demonstrates the demand for Dave to improve the financial system for the everyday person. Since inception and through the date of this report, nearly 16 million Members have registered on the Dave app and nearly 12 million Members have used at least one of our products and we believe that we have a substantial opportunity to continue growing our Member base going forward. We strongly believe that the value proposition of our platform approach will continue to accelerate as a result of our data-driven perspective of our Members, allowing us to introduce products and services that address their changing life circumstances.

Comparability of Financial Information

Our future results of operations and financial position may not be comparable to historical results as a result of the consummation of the Business Combination.

Key Factors Affecting Operating Results

Our future operating results and cash flows are dependent upon a number of opportunities, challenges and other factors, including Member growth and activity, product expansion, competition, industry trends and general economic conditions.

Member Growth and Activity

We have made significant investments in our platform, and our business is dependent on continued Member growth, as well as our ability to offer new products and services and generate additional revenues from our existing Members using such additional products and services. Member growth and activity are critical to our ability to increase our scale, capture market share and earn an attractive return on our technology, product and marketing investments. Growth in Members and Member activity will depend heavily on our ability to continue to offer attractive products and services and the success of our marketing and Member acquisition efforts.

Product Expansion

We aim to develop and offer a best-in-class financial services platform with integrated products and services that improve the financial well-being of our Members. We have invested and continue to make significant investments in the development, improvement and marketing of our financial products and are focused on continual growth in the number of products we offer that are utilized by our Members.

Competition

We face competition from several financial services-oriented institutions. In our reportable segment, as well as in potential new lines of business, we may compete with more established institutions, some of which have more financial resources. We compete at multiple levels, including competition among other financial institutions and lenders in our ExtraCash business, competition for deposits in and debit card spending from our Dave Banking product from traditional banks and digital banking products and competition for subscribers to our personal financial management tools. Some of our competitors may at times seek to increase their market share by undercutting pricing terms prevalent in that market, which could adversely affect our market share for any of our products and services or require us to incur higher member acquisition costs.

Concentration

We currently rely on agreements with Evolve, our only bank partner, to provide ExtraCash and other deposit accounts, debit card services and other transaction services to us and our Members. See Part II Item 1A, “Risk Factors” for additional information. Given the size and consistent growth of our Member base as well as how our product capabilities have been expanding, we are in the process of evaluating additional financial institutions with which we can partner.

Industry Trends/General Economic Conditions

We expect economic cycles to affect our business, financial performance, and financial condition. Macroeconomic conditions, including, but not limited to, rising interest rates, inflation, unemployment rates, and consumer sentiment may impact consumer spending behavior and consumer demand for financial products. Although the Company’s business operations have not been materially impacted as of the date of this report, our business, financial condition, results of operations and prospects may be adversely affected due to the ongoing nature of these macroeconomic factors. Interest rates have remained elevated over the last two years which has increased the costs of borrowing on our Debt Facility. Higher interest rates also often lead to higher payment obligations, which may reduce the ability of Members to repay their ExtraCash and, therefore, lead to increased delinquencies, write-offs and decreased recoveries. We also believe that higher interest rates may increase demand for ExtraCash as consumers seek additional sources of liquidity to help them fund higher costs of living. Additionally, higher levels of unemployment could adversely impact Members’ income levels and, hence, the ability of Members to repay, which could lead to deterioration in credit performance. We believe that our underwriting engine is well positioned to evaluate credit risk in a higher unemployment environment as it analyzes bank account transaction data to assess, nearly in real-time, changes in members’ income, spending, savings, and employment status. We also believe that demand for ExtraCash may increase in periods of higher unemployment as consumers seek additional sources of liquidity to help them meet their financial obligations.

Key Components of Statements of Operations

Basis of presentation

Currently, we conduct business through one operating segment which constitutes a single reportable segment. For more information about our basis of presentation, refer to Note 2 in the accompanying condensed consolidated financial statements of Dave included in this report.

Service based revenue, net

Service based revenue, net primarily consists of optional express processing fees, optional tips and subscriptions charged to Members, net of processor-related costs associated with ExtraCash originations. Service based revenue, net also consists of lead generation fees from our Side Hustle advertising partners and revenue share from our surveys partner.

Transaction based revenue, net

Transaction based revenue, net primarily consists of interchange and ATM revenues from our Checking Product, net of interchange fees, ATM-related fees, and interest earned by Members, fees earned from funding and withdrawal-related transactions, and volume support from a certain co-branded agreement and deposit referral fees that are recognized at the point in time the transactions occur, as the performance obligations are satisfied and the variable consideration is not constrained.

Operating expenses

We classify our operating expenses into the following five categories:

Provision for Credit Losses

The provision for credit losses primarily consists of an allowance for expected credit losses at a level estimated to be adequate to absorb credit losses inherent in the outstanding ExtraCash receivables, inclusive of outstanding processing fees and tips along with outstanding amounts aged over 120 days or which become uncollectible based on information available to us during the period. We currently estimate the allowance balance required using historical loss and collections experience, and, if relevant, the nature and volume of the portfolio, economic conditions, and other factors such as collections trends and cash collections received subsequent to the balance sheet date. Changes to the allowance have a direct impact on the provision for credit losses in the condensed consolidated statement of operations. We consider ExtraCash receivables aged more than 120 days or which become uncollectible based on information available to us as impaired. All impaired ExtraCash receivables are deemed uncollectible and subsequently written off and are a direct reduction to the allowance for credit losses. Subsequent recoveries, if any, of ExtraCash receivables written-off are recorded as a reduction to ExtraCash receivables, resulting in a reduction to the allowance for credit losses and a corresponding reduction to the provision for credit losses in the condensed consolidated statements of operations when collected.

Processing and Servicing Costs

Processing and servicing fees consist of fees paid to our processing partners for the recovery of ExtraCash, optional tips, optional express processing fees and subscriptions. These expenses also include fees paid for services to connect Members' bank accounts to our application. Except for processing and servicing fees associated with ExtraCash originations which are recorded net against revenue, all other processing and service fees are expensed as incurred.

Advertising and Marketing

Advertising and marketing expenses consist primarily of fees we pay to our advertising and marketing platform partners. We incur advertising, marketing and production-related expenses for online, social media and television advertising and for partnerships and promotional advertising. Advertising and marketing expenses are expensed as incurred although they typically deliver a benefit over an extended period.

Compensation and Benefits

Compensation and benefits expenses represent the compensation, inclusive of stock-based compensation and benefits, that we provide to our employees and the payments we make to third-party contractors. While we have an in-house customer service function, we employ third-party contractors to conduct call center operations and manage routine customer service inquiries and support.

Other Operating Expenses

Other operating expenses consist primarily of technology and infrastructure (third-party Software as a Service or "SaaS"), commitments to charity, transaction based costs (program expenses, association fees, processor fees, losses from Member-disputed transactions, bank card fees and fraud), depreciation and amortization of property and equipment and intangible assets, legal fees, rent, certain sales tax related costs, office related expenses, public relations costs, professional services fees, travel and entertainment, and insurance. Costs associated with technology and infrastructure (third-party SaaS), depreciation and amortization of property and equipment and intangible assets, legal fees, rent, office related expenses, public relations costs, professional services fees, travel and

entertainment, and insurance vary based upon our investment in infrastructure, business development, risk management and internal controls and are generally not correlated with our operating revenues or other transaction metrics.

Other (income) expenses

Other (income) expenses consist of interest income, interest expense, gain on extinguishment of debt, changes in fair value of earnout liabilities and changes in fair value of warrant liabilities.

Provision (benefit) for income taxes

Provision (benefit) for income taxes consists of the federal and state corporate income taxes accrued on income resulting from the sale of our services.

Results of Operations

Comparison of the three months ended September 30, 2024 and 2023

Operating revenues

(in thousands, except for percentages)	For the Three Months Ended September 30,		Change	
			$	%
	2024	2023	2024/2023	2024/2023
Service based revenue, net				
Processing fees, net	$ 58,659	$ 39,166	$ 19,493	50%
Tips	18,297	14,548	3,749	26%
Subscriptions	6,334	5,119	1,215	24%
Other	100	346	(246)	-71%
Transaction based revenue, net	9,099	6,632	2,467	37%
Total	**$ 92,489**	**$ 65,811**	**$ 26,678**	41%

Service based revenue, net—

Processing fees, net

Processing fees, net of processor costs associated with ExtraCash originations, for the three months ended September 30, 2024 were $58.7 million, an increase of $19.5 million, or 50%, from $39.2 million for the three months ended September 30, 2023. The increase was primarily attributable to a 23% increase in monthly transacting Members period over period, increases in total ExtraCash volume from approximately $931.5 million to approximately $1,359.5 million period over period and average ExtraCash amounts that increased from $147 to $172 as of the three months ended September 30, 2023 and 2024, respectively. Additionally, the average processing fees Members paid to expedite ExtraCash increased, while the percentage of Members that chose to pay a processing fee to expedite ExtraCash remained flat for the three months ended September 30, 2024 as compared to the three months ended September 30, 2023, respectively. Prospectively, we expect processing fees to increase as expedited ExtraCash volume and average expedited ExtraCash sizes increase, however, processing fees have not always trended ratably. Prior to the implementation of percentage-based processing fees in late 2023, processing fees did not scale ratably with expedited ExtraCash origination amounts.

Tips

Tips for the three months ended September 30, 2024 were $18.3 million, an increase of $3.8 million, or 26%, from $14.5 million for the three months ended September 30, 2023. The increase was primarily attributable to higher tips from Members relating to increases in total ExtraCash volume from approximately $931.5 million to approximately $1,359.5 million period over period and average ExtraCash amounts increased from $147 to $172 for the three months ended September 30, 2023 and 2024, respectively. The average tip Members chose to leave increased while the percentage of Members that chose to leave a tip decreased for the three months ended September 30, 2024 as compared to the three months ended September 30, 2023, respectively. Tip amounts may not always trend ratably as tips can vary depending on the total amount of the ExtraCash, amount of tips Members choose to leave and the percentage of Members who leave a tip.

Subscriptions

Subscriptions for the three months ended September 30, 2024 were $6.3 million, an increase of $1.2 million, or 24%, from $5.1 million for the three months ended September 30, 2023. The increase was primarily attributable to an increase in paying Members on our platform.

Transaction based revenue, net

Transaction based revenue, net for the three months ended September 30, 2024 was $9.1 million, an increase of $2.5 million, or 37%, from $6.6 million for the three months ended September 30, 2023. The increase was primarily attributable to interchange revenue earned from the growth in Members engaging with our Checking Product, card spend and transaction volume of $471.9 million for the three months ended September 30, 2024, an increase of 38%, from $341.0 million for the three months ended September 30, 2023, in addition to increases in fees earned from Members' funding and withdrawal-related transactions, offset by an increase of $0.3 million in interest due to Members.

Operating expenses

(in thousands, except for percentages)	**For the Three Months Ended September 30,**		**Change**	
			$	**%**
	2024	**2023**	**2024/2023**	**2024/2023**
Provision for credit losses	$ 13,680	$ 15,983	$ (2,303)	-14%
Processing and servicing costs	8,576	7,064	1,512	21%
Advertising and marketing	12,501	13,914	(1,413)	-10%
Compensation and benefits	30,763	23,081	7,682	33%
Other operating expenses	24,419	16,343	8,076	49%
Total	**$ 89,939**	**$ 76,385**	**$ 13,554**	18%

Provision for credit losses—The provision for credit losses totaled $13.7 million for the three months ended September 30, 2024, compared to $16.0 million for the three months ended September 30, 2023. The decrease of $2.3 million, or 14%, was primarily attributable to a decrease in provision expense of $2.9 million related to ExtraCash receivables aged over 120 days and those that have become uncollectible based on information available to us, offset by an increase in provision expense of $0.6 million related to ExtraCash receivables aged 120 days and under.

The decrease in provision expense of $2.9 million related to ExtraCash receivables aged over 120 days and those which have become uncollectible based on information available to us, period over period, was attributed to improved collections performance due primarily to underwriting modifications related to ExtraCash eligibility requirements, new Member conversion and risk detection, all despite increases in transacting Members, average ExtraCash amounts from $147 to $172 and total ExtraCash origination volume from $931.5 million to approximately $1,359.5 million for the three months ended September 30, 2023 and 2024, respectively. All impaired ExtraCash receivables deemed uncollectible are subsequently written-off and are a direct reduction to the allowance for credit losses.

The increase in provision expense of $0.6 million related to ExtraCash receivables aged 120 days and under was primarily attributed to an increase in receivables outstanding related to the 46% increase in ExtraCash origination volume, offset by improved collections performance during the period ended September 30, 2024 as compared to the period ended September 30, 2023. This resulted in an increase to the allowance for credit losses and corresponding increase in provision expense during the three months ended September 30, 2024 as compared to September 30, 2023. We anticipate volatility in ExtraCash receivables outstanding each period as they are directly correlated with the timing and volume of Member ExtraCash activity during the last 120 days prior to the end of the period.

Historical loss and collections rates utilized in the calculation of the provision for credit losses improved slightly when compared to historical rates due to continued improvement in historical collections performance. Any changes to our historical loss and collections experience directly affect the historical loss rates utilized in the calculation of the allowance for credit losses. The changes in the allowance for credit losses, period over period, have a direct impact on the provision for credit losses.

For information on the aging of ExtraCash receivables and a roll-forward of the allowance for credit losses, refer to the tables in Note 5 ExtraCash Receivables, Net in the accompanying condensed consolidated financial statements of Dave included in this report.

Processing and service costs—Processing and servicing costs totaled $8.6 million for the three months ended September 30, 2024, compared to $7.1 million for the three months ended September 30, 2023. The increase of $1.5 million, or 21%, was primarily driven by increases in ExtraCash origination volume from $931.5 million to approximately $1,359.5 million, offset by, continued technology enhancements made to our ExtraCash payments structure along with rebates and cost savings due to price reductions from our processors.

Advertising and marketing—Advertising and marketing expenses totaled $12.5 million for the three months ended September 30, 2024, compared to $13.9 million for the three months ended September 30, 2023. The decrease of $1.4 million, or 10%, was primarily attributable to a more targeted, conversion-focused spend approach on our advertising campaigns, production and promotions across various social media platforms and television. Additionally, channel and creative optimization and ongoing improvements to our measurement and reporting infrastructure allowed us to invest more intelligently across our marketing mix.

Compensation and benefits—Compensation and benefits expenses totaled $30.8 million for the three months ended September 30, 2024, compared to $23.1 million for the three months ended September 30, 2023. The increase of $7.7 million, or 33%, was primarily attributable to the following:

- an increase in stock-based compensation of $6.6 million, primarily due to the vesting of certain performance based restricted stock units during the three months ended September 30, 2024, compared to the three months ended September 30, 2023, offset by a reduction in stock-based compensation expense related to stock options granted in prior years that have fully vested; and
- an increase in payroll related costs of $1.1 million, primarily due to an increase in salaries, offset by reductions in headcounts and severance-related costs, period over period.

Other operating expenses—Other operating expenses totaled $24.4 million for the three months ended September 30, 2024, compared to $16.3 million for the three months ended September 30, 2023. The increase of $8.1 million, or 49%, was primarily attributable to the following:

- an increase in legal settlement expenses of $7.3 million, primarily attributed to a $7.0 million legal settlement and litigation accrual related to the FTC matter.
- an increase in expenses related to our Checking Product of $0.8 million, primarily attributable to processing fees, card fees and fraud related costs associated with the growth in Members and the number of transactions processed; and
- an increase in depreciation and amortization of $0.4 million, primarily due to increased amortization of other internally capitalized project costs and depreciation related to leasehold improvements and equipment purchases; offset by
- a decrease in various general and administrative expenses of $0.5 million, primarily due to cost cutting measures enacted across the Company.

Other (income) expenses

(in thousands, except for percentages)	**For the Three Months Ended September 30,**		**Change**	
			$	**%**
	2024	**2023**	**2024/2023**	**2024/2023**
Interest income	$ (439)	$ (1,332)	$ 893	-67%
Interest expense	1,964	3,057	(1,093)	-36%
Changes in fair value of earnout liabilities	(17)	2	(19)	-950%
Changes in fair value of public and private warrant liabilities	203	(257)	460	-179%
Total	**$ 1,711**	**$ 1,470**	**$ 241**	16%

Interest income— Interest income totaled $0.4 million for the three months ended September 30, 2024, compared to $1.3 million for the three months ended September 30, 2023. The decrease of $0.9 million, or 67%, was primarily attributable to an average lower total balance of investments held during the quarter ended September 30, 2024 as compared to the quarter ended September 30, 2023.

Interest expense— Interest expense totaled $2.0 million for the three months ended September 30, 2024, compared to $3.1 million for the three months ended September 30, 2023. The decrease of $1.1 million, or 36%, was primarily attributable to a reduction of interest expense related to the repurchase of the convertible note with FTX Ventures Ltd. in January 2024.

Changes in fair value of warrant liability—Changes in fair value of warrant liability totaled an expense of $0.2 million for the three months ended September 30, 2024, compared to a gain of $0.3 million for the three months ended September 30, 2023. The increase in expense of $0.5 million, or 179%, was primarily attributable to fair value adjustments associated with our public and private warrant liabilities due to increases in our underlying Class A Common Stock price compared to the quarter ended September 30, 2023.

Provision (benefit) for income taxes

(in thousands, except for percentages)	For the Three Months Ended September 30,		Change	
			$	%
	2024	2023	2024/2023	2024/2023
Provision for income taxes	373	9	364	4044 %
Total	**$ 373**	**$ 9**	**$ 364**	4044 %

Provision for income taxes for the three months ended September 30, 2024 increased by approximately $0.4 million compared to the three months ended September 30, 2023. The increase was primarily due to income reported for the three months ended September 30, 2024 compared to losses report for the three months ended September 30, 2023. The Company reported losses for the three months ended September 30, 2023 resulting in state minimum taxes but no income tax benefit on the losses due to the Company's valuation allowance.

Results of Operations

Comparison of the nine months ended September 30, 2024 and 2023

Operating revenues

(in thousands, except for percentages)	For the Nine Months Ended September 30,		Change	
			$	%
	2024	2023	2024/2023	2024/2023
Service based revenue, net				
Processing fees, net	$ 152,850	$ 108,153	$ 44,697	41 %
Tips	49,284	41,447	7,837	19 %
Subscriptions	18,127	16,150	1,977	12 %
Other	342	990	(648)	-65 %
Transaction based revenue, net	25,633	19,234	6,399	33 %
Total	**$ 246,236**	**$ 185,974**	**$ 60,262**	32 %

Service based revenue, net—

Processing fees, net

Processing fees, net of processor costs associated with ExtraCash originations, for the nine months ended September 30, 2024 were $152.9 million, an increase of $44.7 million, or 41%, from $108.2 million for the nine months ended September 30, 2023. The increase was primarily attributable to an 18% increase in monthly transacting Members period over period, increases in total ExtraCash volume from approximately $2,596.9 million to approximately $3,596.2 million period over period and average ExtraCash amounts that increased from $152 to $166 as of the nine months ended September 30, 2023 and 2024, respectively. Additionally, the average processing fees Members paid to expedite ExtraCash increased while the percentage of Members that chose to pay a processing fee to expedite ExtraCash remained flat for the nine months ended September 30, 2024 as compared to the nine months ended September 30, 2023, respectively. Prospectively, we expect processing fees to increase as expedited ExtraCash volume and average expedited ExtraCash sizes increase, however, processing fees have not always trended ratably. Prior to the implementation of percentage-based processing fees in late 2023, processing fees did not scale ratably with expedited ExtraCash origination sizes.

Tips

Tips for the nine months ended September 30, 2024 were $49.3 million, an increase of $7.9 million, or 19%, from $41.4 million for the nine months ended September 30, 2023. The increase was primarily attributable to higher tips from Members relating to increases in total ExtraCash volume from approximately $2,596.9 million to approximately $3,596.2 million period over period and average

ExtraCash amounts increased from $152 to $166 for the nine months ended September 30, 2023 and 2024, respectively. The average tip Members chose to leave increased while the percentage of Members that chose to leave a tip decreased for the nine months ended September 30, 2024 as compared to the nine months ended September 30, 2023, respectively. Tip amounts may not always trend ratably as tips can vary depending on the total amount of the ExtraCash, the amount of tips Members choose to leave and the percentage of Members who leave a tip.

Subscriptions

Subscriptions for the nine months ended September 30, 2024 were $18.1 million, an increase of $1.9 million, or 12%, from $16.2 million for the nine months ended September 30, 2023. The increase was primarily attributable to an increase in paying Members on our platform.

Transaction based revenue, net

Transaction based revenue, net for the nine months ended September 30, 2024 were $25.6 million, an increase of $6.4 million, or 33%, from $19.2 million for the nine months ended September 30, 2023. The increase was primarily attributable to interchange revenue earned from the growth in Members engaging with our Checking Product, card spend and transaction volume of $1,393.8 million for the nine months ended September 30, 2024, an increase of 48%, from $940.0 million for the nine months ended September 30, 2023 and increases in fees earned from Members' funding and withdrawal-related transactions, offset by an increase of $1.1 million in interest due to Members during the nine months ended September 30, 2024.

Operating expenses

(in thousands, except for percentages)	**For the Nine Months Ended September 30,**		**Change**	
			$	**%**
	2024	**2023**	**2024/2023**	**2024/2023**
Provision for credit losses	$ 37,988	$ 43,861	$ (5,873)	-13%
Processing and servicing costs	24,093	21,414	2,679	13%
Advertising and marketing	32,341	38,370	(6,029)	-16%
Compensation and benefits	79,830	71,380	8,450	12%
Other operating expenses	58,366	54,922	3,444	6%
Total	**$ 232,618**	**$ 229,947**	**$ 2,671**	1%

Provision for credit losses—The provision for credit losses totaled $38.0 million for the nine months ended September 30, 2024, compared to $43.9 million for the nine months ended September 30, 2023. The decrease of $5.9 million, or 13%, was primarily attributable to a decrease in provision expense of $11.4 million related to ExtraCash receivables aged over 120 days and those that have become uncollectible based on information available to us, offset by an increase in provision expense of $5.6 million related to ExtraCash receivables aged 120 days and under.

The decrease in provision expense of $11.4 million related to ExtraCash receivables aged over 120 days and those which have become uncollectible based on information available to us, period over period, was attributed to improved collections performance due primarily to underwriting modifications related to ExtraCash eligibility requirements, new Member conversion and risk detection, despite increases in transacting Members, average ExtraCash from $152 to $166 and total ExtraCash origination volume from $2,596.9 million to approximately $3,596.2 million for the nine months ended September 30, 2023 and 2024, respectively. All impaired ExtraCash receivables deemed uncollectible are subsequently written-off and are a direct reduction to the allowance for credit losses.

The increase in provision expense of $5.6 million related to ExtraCash receivables aged 120 days and under was primarily attributed to an increase in receivables outstanding related to the 38% increase in ExtraCash volume, offset by improved collections performance during the nine months ended September 30, 2024 compared to the nine months ended September 30, 2023. This resulted in an increase to the allowance for credit losses and corresponding increase in provision expense during the nine months ended September 30, 2024 as compared to September 30, 2023. We anticipate volatility in ExtraCash receivables outstanding each period as they are directly correlated with the timing and volume of Member ExtraCash activity during the last 120 days prior to the end of the period.

Historical loss and collections rates utilized in the calculation of the provision for credit losses decreased slightly when compared to historical rates due to continued improvement in historical collections performance. Any changes to our historical loss and collections

experience directly affect the historical loss rates utilized in the calculation of the allowance for credit losses. The changes in the allowance for credit losses, period over period, have a direct impact on the provision for credit losses.

For information on the aging of ExtraCash receivables and a roll-forward of the allowance for credit losses, refer to the tables in Note 5 ExtraCash receivables, Net in the accompanying condensed consolidated financial statements of Dave included in this report.

Processing and service costs—Processing and servicing costs totaled $24.1 million for the nine months ended September 30, 2024, compared to $21.4 million for the nine months ended September 30, 2023. The increase of $2.7 million, or 13%, was primarily driven by increases in ExtraCash origination volume from $2,596.9 million to approximately $3,596.2 million, offset by, technology enhancements made to our ExtraCash payments structure along with rebates and cost savings due to price reductions from our processors.

Advertising and marketing—Advertising and marketing expenses totaled $32.3 million for the nine months ended September 30, 2024, compared to $38.4 million for the nine months ended September 30, 2023. The decrease of $6.0 million, or 16%, was primarily attributable to a more targeted, conversion-focused spend approach on our advertising campaigns, production and promotions across various social media platforms and television. Additionally, channel and creative optimization and ongoing improvements to our measurement and reporting infrastructure allowed us to invest more intelligently across our marketing mix.

Compensation and benefits—Compensation and benefits expenses totaled $79.8 million for the nine months ended September 30, 2024, compared to $71.4 million for the nine months ended September 30, 2023. The increase of $8.4 million, or 12%, was primarily attributable to the following:

- an increase in stock-based compensation of $7.0 million, primarily due to additional stock-based compensation expense related to a modification of price targets in the market vesting conditions for unvested RSUs, larger amounts of restricted stock units granted during the 9 months ended September 30, 2024 and the vesting of certain performance based RSUs compared to the nine months ended September 30, 2023, offset by a reduction in stock-based compensation expense related to stock options granted in prior years that have fully vested;
- an increase in payroll and related costs of $2.2 million, primarily related to increases in salaries and performance bonuses; offset by
- a decrease in contractor and consulting fees of $0.8 million due to the reduction in external support for IT security, finance, marketing, design and customer service resources.

Other operating expenses—Other operating expenses totaled $58.4 million for the nine months ended September 30, 2024, compared to $54.9 million for the nine months ended September 30, 2023. The increase of $3.4 million, or 6%, was primarily attributable to the following:

- an increase in legal expenses of $2.9 million, primarily due to a $7.0 million legal settlement and litigation accrual related to the FTC matter during the nine months ended September 30, 2024, compared to $4.3 million in legal and settlement related to a separate matter incurred during the nine months ended September 30, 2023;
- an increase in expenses related to our Checking Product of $1.5 million, primarily attributable to processing fees, card fees and fraud related costs associated with the growth in Members and the number of transactions processed; and
- an increase in depreciation and amortization of $1.5 million, primarily due to increased amortization of other internally capitalized project costs and depreciation related to leasehold improvements and equipment purchases; offset by
- a decrease in charitable contribution expenses of $1.0 million, primarily due to amounts pledged to charitable meal donations related to Members' tips; and
- a decrease in various general and administrative expenses of $1.6 million, primarily due to cost cutting measures enacted across the company.

Other (income) expense

(in thousands, except for percentages)	For the Nine Months Ended September 30,		Change	
			$	%
	2024	2023	2024/2023	2024/2023
Interest income	$ (2,471)	$ (4,009)	$ 1,538	-38%
Interest expense	6,146	8,982	(2,836)	-32%
Gain on extinguishment of convertible debt	(33,442)	-	(33,442)	-100%
Changes in fair value of earnout liabilities	116	(35)	151	-431%
Changes in fair value of public and private warrant liabilities	408	(239)	647	-271%
Total	**$ (29,243)**	**$ 4,699**	**$ (33,942)**	-722%

Interest income— Interest income totaled $2.5 million for the nine months ended September 30, 2024, compared to $4.0 million for nine months ended September 30, 2023. The decrease of $1.5 million, or 38%, was primarily attributable to an average lower balance of investments held during the nine months ended September 30, 2024 as compared to the nine months ended September 30, 2023.

Interest expense— Interest expense totaled $6.1 million for the nine months ended September 30, 2024, compared to $9.0 million for the nine months ended September 30, 2023. The decrease of $2.8 million, or 32%, was primarily attributable to a reduction of interest expense related to the repurchase of the convertible note with FTX Ventures Ltd. in January 2024.

Gain on extinguishment of convertible debt— The gain on extinguishment of convertible debt totaled $33.4 million for the nine months ended September 30, 2024, compared to $0 for the nine months ended September 30, 2023. The increase was primarily attributable to the repurchase of the $105.7 million outstanding balance of the convertible note with FTX Ventures Ltd. for $71.0 million during January of 2024. The gain was reduced by unamortized debt issuance costs of $0.03 million at the extinguishment date and third-party costs totaling $1.3 million in conjunction with the settlement of the convertible note.

Changes in fair value of earnout liability—Changes in the fair value of earnout liabilities totaled an expense of $0.1 million for the nine months ended September 30, 2024, compared to a gain of $0.04 million for the nine months ended September 30, 2023. The increase in expense of $0.2 million, or 431%, was primarily attributable to fair value adjustments associated with our earnout shares liability due to increases in our underlying Class A Common Stock price as of the nine months ended September 30, 2024 when compared to the nine months ended September 30, 2023.

Changes in fair value of warrant liability—Changes in the fair value of warrant liability totaled an expense of $0.4 million for the nine months ended September 30, 2024, compared to a gain of $0.2 million for the nine months ended September 30, 2023. The increase in expense of $0.6 million, or 271%, was primarily attributable to fair value adjustments associated with our public and private warrant liabilities due to increases in our underlying Class A Common Stock price for the nine months ended September 30, 2024 as compared to the nine months ended September 30, 2023.

Provision for income taxes

(in thousands, except for percentages)	For the Nine Months Ended September 30,		Change	
			$	%
	2024	2023	2024/2023	2024/2023
Provision for income taxes	1,794	24	1,770	7375%
Total	**$ 1,794**	**$ 24**	**$ 1,770**	7375%

Provision for income taxes for the nine months ended September 30, 2024 increased by approximately $1.8 million compared to the nine months ended September 30, 2023. This increase was primarily due to a significant increase in income for nine months ended September 30, 2024 compared to the nine months ended September 30, 2023, including a discrete gain on extinguishment of convertible debt of $33.4 million.

Non-GAAP Financial Measures

In addition to our results determined in accordance with GAAP, we believe the following non-GAAP measure is useful in evaluating our operational performance. We use the following non-GAAP measure to evaluate our ongoing operations and for internal planning and forecasting purposes. We believe that the non-GAAP financial information may be helpful in assessing our operating performance

and facilitates an alternative comparison among fiscal periods. The non-GAAP financial measure is not, and should not be viewed as, a substitute for GAAP reporting measures.

Adjusted EBITDA

"Adjusted EBITDA" is defined as net income (loss) adjusted for interest expense, net, provision (benefit) for income taxes, depreciation and amortization, stock-based compensation and other discretionary items determined by management. Adjusted EBITDA is intended as a supplemental measure of our performance that is neither required by, nor presented in accordance with, GAAP. We believe that the use of Adjusted EBITDA provides an additional tool for investors to use in evaluating ongoing operating results and trends and in comparing our financial measures with those of comparable companies, which may present similar non-GAAP financial measures to investors. However, you should be aware that, when evaluating Adjusted EBITDA, we may incur future expenses similar to those excluded when calculating these measures. In addition, our presentation of these measures should not be construed as an inference that our future results will be unaffected by unusual or non-recurring items. Our computation of Adjusted EBITDA may not be comparable to other similarly titled measures computed by other companies, because not all companies calculate Adjusted EBITDA in the same fashion.

Because of these limitations, Adjusted EBITDA should not be considered in isolation or as a substitute for performance measures calculated in accordance with GAAP. We compensate for these limitations by relying primarily on our GAAP results and using Adjusted EBITDA on a supplemental basis. The reconciliation of net income (loss) to Adjusted EBITDA below should be reviewed, and no single financial measure should be relied upon to evaluate our business.

The following table reconciles net income (loss) to Adjusted EBITDA (loss) for the three and nine months ended September 30, 2024 and 2023, respectively:

(in thousands)	**For the Three Months Ended September 30,**	
	2024	**2023**
Net income (loss)	$ 466	$ (12,053)
Interest expense, net	1,525	1,725
Provision for income taxes	373	9
Depreciation and amortization	1,803	1,364
Stock-based compensation	13,359	6,740
Legal settlement and litigation accrual	7,000	-
Changes in fair value of earnout liabilities	(17)	2
Changes in fair value of public and private warrant liabilities	203	(257)
Adjusted EBITDA (loss)	**$ 24,712**	**$ (2,470)**

(in thousands)	**For the Nine Months Ended September 30,**	
	2024	**2023**
Net income (loss)	$ 41,067	$ (48,696)
Interest expense, net	3,675	4,973
Provision for income taxes	1,794	24
Depreciation and amortization	5,235	3,750
Stock-based compensation	27,195	20,145
Legal settlement and litigation accrual	7,000	
Gain on extinguishment of convertible debt	(33,442)	-
Changes in fair value of earnout liabilities	116	(35)
Changes in fair value of public and private warrant liabilities	408	(239)
Adjusted EBITDA (loss)	**$ 53,048**	**$ (20,078)**

Liquidity and Capital Resources

In the past, we have financed our operations primarily from cash receipts from service and transaction based revenues, equity financings, borrowings under the Debt Facility, issuances of convertible notes and funds received as a result of the business

combination. As of September 30, 2024 and December 31, 2023 our cash and cash equivalents, marketable securities, investments and restricted cash balance was $76.7 million and $157.3 million, respectively.

As an early-stage company, the expenses we have incurred since inception are consistent with our strategy and approach to capital allocation. Although we have recently begun to generate net income, we may incur net losses in the future in accordance with our operating plan as we continue to expand and improve upon our financial platform.

Our ability to access capital when needed is not assured and, if capital is not available to us when, and in the amounts needed, we could be required to delay, scale back or abandon some or all of our development programs and other operations, which could materially harm our business, prospects, financial condition and operating results.

We believe that our cash on hand should be sufficient to meet our working capital and capital expenditure requirements and fund our operations for a period of at least 12 months from the date of this report. We may raise additional capital through private or public equity or debt financings. The amount and timing of our future funding requirements, if any, will depend on many factors, including the pace and results of our product development efforts. No assurances can be provided that additional funding will be available at terms acceptable to us, if at all. If we are unable to raise additional capital, we may significantly curtail our operations, modify existing strategic plans and/or dispose of certain operations or assets.

Material Cash Requirements

In the normal course of business, we enter into various agreements with our vendors that may subject us to minimum annual requirements. While our contractual commitments will have an impact on our future liquidity, we believe that we will be able to adequately fulfill these obligations through cash generated from operations and from our existing cash balances. We do not have any "off-balance sheet arrangements," as defined by the SEC regulations.

Although we have fully implemented our remote employee workforce strategy in the U.S., we have not closed our leased office locations. We are required to continue making our contractual payments until our operating leases are formally terminated or expire. Our remaining leases have terms of approximately 1.3 to 4.1 years as of September 30, 2024, and we had a total lease liability of $0.6 million. See Note 12, Leases in the notes to our condensed consolidated financial statements for additional information regarding our lease liabilities as of September 30, 2024.

In the near term, we expect to continue to generate ExtraCash relying primarily on our balance sheet cash and Debt Facility, as needed. Interest payments on term loan borrowings under the Debt Facility are required to be made on a monthly basis. At September 30, 2024, $75.0 million of term loans under the Debt Facility were outstanding. See Note 10, Debt Facility in the notes to our condensed consolidated financial statements in this report.

Additionally, we also had certain contractual payment obligations for interest owed under the $100.0 million Note we issued and sold pursuant to the Note Purchase Agreement entered into with FTX Ventures Ltd. Interest payments relating to the Note were required to be made or added to the outstanding principal on a semi-annual basis. On January 29, 2024, we repurchased the $105.5 million outstanding balance of the Note for $71.0 million. For more information on the Note Purchase Agreement with FTX Ventures Ltd., see Note 8, Convertible Note Payable.

We may use cash to acquire businesses and technologies. The nature of these transactions, however, makes it difficult to predict the amount and timing of such cash requirements.

Cash Flows Summary

(in thousands)	For the Nine Months Ended September 30,	
Total cash provided by (used in):	**2024**	**2023**
Operating activities	$ 83,423	$ 18,121
Investing activities	(19,028)	2,997
Financing activities	(70,868)	4
Net (decrease) increase in cash and cash equivalents and restricted cash	**$ (6,473)**	**$ 21,122**

Cash Flows From Operating Activities

During the nine months ended September 30, 2024, net cash provided by operating activities increased compared to the nine months ended September 30, 2023 due to increases in operating revenues and a reduction in various operating expenses across the organization. Net cash provided by operating activities for the nine months ended September 30, 2024 included net income of $41.1 million, and excluding non-cash impacts, included increase in legal settlement accrual of $3.8 million, an increase in accounts payable of $2.9 million, an increase in other non-current liabilities of $2.8 million, an increase in accrued expenses of $4.5 million, and a decrease in prepaid income taxes of $0.1 million. These changes were offset by an increase in prepaid expenses and other current assets of $6.0 million, an increase in ExtraCash receivables, service based revenue of $3.7 million.

During the nine months ended September 30, 2023, net cash provided by operating activities increased compared to the nine months ended September 30, 2022 due to increases in operating revenues, offset primarily by increases in compensation and other operating expenses to support the growth of the business. Net cash provided by operating activities for the nine months ended September 30, 2023 included a net loss of $48.6 million, and excluding non-cash impacts, included a decrease in accounts payable of $2.1 million, a decrease in a legal settlement accrual of $1.4 million, and a decrease in other current liabilities of $0.6 million. These changes were offset primarily by an increase in accrued expenses of $2.8 million, a decrease in prepaid expenses and other current assets of $0.4 million and a decrease in other non-current assets of $0.1 million.

Cash Flows From Investing Activities

During the nine months ended September 30, 2024, net cash provided by investing activities was $19.0 million. This included the sale and maturity of investments of $147.7 million and sale of marketable securities of $60.1 million, offset by purchases of investments of $74.8 million, purchases of marketable securities of $59.3 million, net ExtraCash originations and collections of $87.0 million and payments related to internally developed software costs and property and equipment of $5.5 million.

During the nine months ended September 30, 2023, net cash provided by investing activities was $3.0 million. This included the sale and maturity of short-term investments of $137.2 million and sale of marketable securities of $33.0 million, offset by purchases of short-term investments of $92.0 million, net ExtraCash originations and collections of $34.3 million, payments related to internally developed software costs of $5.9 million, and purchases of marketable securities of $34.4 million.

Cash Flows From Financing Activities

During the nine months ended September 30, 2024, net cash used in financing activities was $70.9 million, which consisted of the $71.8 million paydown of the FTX Ventures Ltd. convertible note and associated costs, offset by $0.9 million for proceeds received for stock option exercises.

During the nine months ended September 30, 2023 net cash used in financing activities was $4.0 thousand, which primarily consisted of payments for fractional shares that resulted from a reverse stock split.

Critical Accounting Estimates

Our condensed consolidated financial statements have been prepared in accordance with U.S. GAAP. The preparation of these condensed consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the condensed consolidated financial statements, as well as the reported revenues and expenses incurred during the reporting periods. Our estimates are based on our historical experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Our critical accounting estimates and assumptions are evaluated on an ongoing basis, including those related to the following:

(i) Allowance for credit losses; and

(ii) Income taxes.

Actual results may differ from these estimates under different assumptions or conditions. We believe that the accounting estimates discussed below are critical to understanding our historical and future performance, as these estimates relate to the more significant areas involving management’s judgments and estimates. For further details, please refer to Note 2 in our accompanying condensed consolidated financial statements for the three and nine months ended September 30, 2024 and 2023 included in this Form 10-Q.

While our significant accounting estimates are described in the notes to our condensed consolidated financial statements, we believe that the following accounting estimates require a greater degree of judgment and complexity and are the most critical to understanding our financial condition and historical and future results of operations.

Allowance for Credit Losses

ExtraCash receivables from contracts with Members as of the balance sheet dates are recorded at their original ExtraCash amounts reduced by an allowance for expected credit losses. We pool our ExtraCash receivables, all of which are short-term in nature and arise from contracts with Members, based on shared risk characteristics to assess their risk of loss, even when that risk is remote. We use an aging method and historical loss rates as a basis for estimating the percentage of current and delinquent ExtraCash receivables balances that will result in credit losses. We consider whether the conditions at the measurement date and reasonable and supportable forecasts about future conditions warrant an adjustment to our historical loss experience. In assessing such adjustments, we primarily evaluate current economic conditions, expectations of near-term economic trends and changes in customer payment terms and collection trends. For the measurement dates presented herein, given our methods of collecting funds, and that we have not observed meaningful changes in our customers' payment behavior, we determined that our historical loss rates remained most indicative of our lifetime expected losses. We immediately recognize an allowance for expected credit losses at the time of the ExtraCash origination. Adjustments to the allowance each period for changes in the estimate of lifetime expected credit losses are recognized in operating expenses—provision for credit losses in the condensed consolidated statements of operations.

When we determine that an ExtraCash receivable is not collectible, the uncollectible amount is written-off as a reduction to both the allowance and the gross asset balance. Subsequent recoveries are recorded when received and are recorded as a recovery of the allowance for expected credit losses. Any change in circumstances related to a specific ExtraCash receivable may result in an additional allowance for expected credit losses being recognized in the period in which the change occurs.

Income Taxes

We follow ASC 740, Income Taxes ("ASC 740"), which requires recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the condensed consolidated financial statements or tax returns. Under this method, deferred tax assets and liabilities are based on the differences between the financial statement and tax basis of assets and liabilities using enacted tax rates in effect for the period in which the differences are expected to reverse. Deferred tax assets are reduced by a valuation allowance to the extent management concludes it is more-likely-than-not that the asset will not be realized.

The effective tax rate used for interim periods is the estimated annual effective tax rate, based on the current estimate of full year results, except that those taxes related to specific discrete events, if any, are recorded in the interim period in which they occur. The annual effective tax rate is based upon several significant estimates and judgments, including our estimated annual pre-tax income in each tax jurisdiction in which it operates, and the development of tax planning strategies during the year. In addition, our tax expense can be impacted by changes in tax rates or laws and other factors that cannot be predicted with certainty. As such, there can be significant volatility in interim tax provisions.

ASC 740 provides that a tax benefit from an uncertain tax position may be recognized when it is more-likely-than-not that the position will be sustained in a court of last resort, based on the technical merits. If more-likely-than-not, the amount recognized is the largest amount of tax benefit that is greater than 50% likely of being realized upon examination, including compromise settlements. For tax positions not meeting the more-likely-than-not threshold, no tax benefit is recorded. We have estimated $1.8 million and $1.1 million of uncertain tax positions as of September 30, 2024 and 2023, respectively, related to state income taxes and federal and state R&D tax credits.

Our policy is to recognize interest and penalties accrued on any unrecognized tax benefits as a component of income tax expense within the statement of operations.

We are subject to income tax in jurisdictions in which we operate, including the United States. For U.S. income tax purposes, we are taxed as a Subchapter C corporation.

We recognize deferred taxes for temporary differences between the basis of assets and liabilities for financial statement and income tax purposes. We recorded a valuation allowance against our deferred tax assets, net of certain deferred tax liabilities, at September 30, 2024 and December 31, 2023. Based upon management's assessment of all available evidence, we have concluded that it is more-likely-than-not that the deferred tax assets, net of certain deferred tax liabilities, will not be realized.

Emerging Growth Company Status

We are an "emerging growth company" as defined in Section 2(a) of the Securities Act of 1933, as amended, and have elected to take advantage of the benefits of the extended transition period for new or revised financial accounting standards. We expect to remain an emerging growth company and to continue to take advantage of the benefits of the extended transition period, although we may decide to early adopt such new or revised accounting standards to the extent permitted by such standards. We expect to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and non-public companies until the earlier of the date we (i) are no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. This may make it difficult or impossible to compare our financial results with the financial results of another public company that is either not an emerging growth company or is an emerging growth company that has chosen not to take advantage of the extended transition period exemptions because of the potential differences in accounting standards used. See Note 2 of our accompanying condensed consolidated financial statements included in this report for the recent accounting pronouncements adopted and the recent accounting pronouncements not yet adopted for the three months ended September 30, 2024 and 2023.

In addition, we intend to rely on the other exemptions and reduced reporting requirements provided by the JOBS Act for emerging growth companies. Subject to certain conditions set forth in the JOBS Act, if we intend to rely on such exemptions, we are not required to, among other things: (a) provide an auditor's attestation report on our system of internal control over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act; (b) provide all of the compensation disclosure that may be required of non-emerging growth public companies under the Dodd- Frank Wall Street Reform and Consumer Protection Act; (c) comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor's report providing additional information about the condensed consolidated financial statements (auditor discussion and analysis); and (d) disclose certain executive compensation-related items such as the correlation between executive compensation and performance and comparisons of the Chief Executive Officer's compensation to median employee compensation.

We will remain an emerging growth company under the JOBS Act until the earliest of (1) the last day of the fiscal year (a) following March 4, 2026, (b) in which we have total annual gross revenue of at least $1.235 billion, (c) in which we are deemed to be a "large accelerated filer" under the rules of the SEC, which means the market value of our common equity that is held by non-affiliates exceeds $700.0 million as of the end of the prior fiscal year's second fiscal quarter; and (2) the date on which we have issued more than $1.0 billion in non-convertible debt securities during the previous three years.

Recently Issued Accounting Standards

Refer to Note 2, "Significant Accounting Policies," of our condensed consolidated financial statements included in this report for a discussion of the impact of recent accounting pronouncements.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

Not required for smaller reporting companies.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Disclosure controls and procedures are designed to ensure that information required to be disclosed by us in our Exchange Act reports is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

As required by Rules 13a-15 and 15d-15 under the Exchange Act, our Chief Executive Officer and Chief Financial Officer conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures as of September 30, 2024. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures were not effective, due to the material weaknesses in our internal control over financial reporting described below. As a result, we performed additional analysis as deemed necessary to ensure that our financial statements were prepared in accordance with U.S. generally accepted accounting principles. Accordingly, management believes that the financial statements included in this Quarterly Report on Form 10-Q present fairly in all material respects our financial position, results of operations and cash flows for the period presented.

Previously Identified Material Weaknesses

As discussed in Part II, Item 9A in our Annual Report, we identified material weaknesses in our internal control over financial reporting for the years ended December 31, 2023 because:

- We did not maintain sufficient evidence of the performance and/or review of certain internal controls or complete remediation testing for certain internal controls over the period-end financial reporting process addressing financial statement and footnote presentation and disclosures; and
- We did not maintain sufficient evidence of the performance and/or review of certain IT application controls for information systems that are relevant to the preparation of our financial statements.

Remediation Plan and Status

During 2023, we made significant progress enhancing our internal control environment by completing an enterprise-wide risk assessment, process narratives, risk and control matrices, a subsequent gap analysis and performed targeted testing of the design and operating effectiveness of our internal control over financial reporting in efforts to remediate previously disclosed material weaknesses. These efforts also include, but are not limited to: adding additional resources in accounting and finance departments, utilizing third party specialists to assist with complex accounting matters and reduce risks associated with the lack of segregation of duties; implementing a segregation of duties monitoring tool; formalizing accounting policies and procedures; implementing a new enterprise resource planning system to enhance the journal entry review and approval processes; performing bank and balance sheet account reconciliations on a monthly basis; implementing a SOX compliance and audit management platform; and designing and implementing both IT general controls and IT application controls around our product platform and core applications, including controls over: change management, access security and IT operations.

We will continue to implement our plan to remediate the material weaknesses described above. Those remediation measures are ongoing and include (i) ensuring our enterprise-wide risk assessment, risk and control matrices, process narratives and gap analysis continue to be updated to reflect our current accounting processes and internal control environment and (ii) ensuring internal control over financial reporting is adequately performed; and (iii) ensuring sufficient testing is performed and the testing-related support and documentation are complete and accurate for the design and operating effectiveness of internal control over financial reporting.

For further details on our material weaknesses that existed during the years ended December 31, 2023 and 2022, please refer to our Annual Report.

Changes in Internal Control over Financial Reporting

Other than described above, there were no changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act) during the most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II —OTHER INFORMATION

Item 1. Legal Proceedings.

For a description of our material pending legal proceedings, please see Note 11, “Commitments and Contingencies,” to the condensed consolidated financial statements included elsewhere in this report.

From time to time, we may become involved in other legal proceedings arising in the ordinary course of business. We are not currently a party to any other such litigation or legal proceedings that, in the opinion of our management, are likely to have a material adverse effect on our business. Regardless of outcome, litigation can have an adverse impact on us because of defense and settlement costs, diversion of management resources, negative publicity and reputational harm and other factors.

Item 1A. Risk Factors.

As of the date of this Form 10-Q, there have been no material changes to the risk factors disclosed in in our Annual Report for the year ended December 31, 2023 filed with the SEC on March 5, 2024, other than as noted below. Any of these factors could result in a significant or material adverse effect on our results of operations or financial condition. Additional risk factors not presently known to us or that we currently deem immaterial may also impair our business or results of operations. We may disclose changes to such risk factors or disclose additional risk factors from time to time in our future filings with the SEC.

We currently rely on a single bank partner, and if our present or any future key banking relationships are terminated and we are not able to secure or successfully migrate client portfolios to a new bank partner or partners, or our bank partner becomes subject to regulatory restrictions or other operational disruptions, our business would be adversely affected.

We currently rely on agreements with Evolve, our only bank partner, to provide ExtraCash and other deposit accounts, debit card services and other transaction services to us and our Members. These agreements and corresponding regulations governing banks and financial institutions may give Evolve substantial discretion in approving certain aspects of our business practices, including our application and qualification procedures for Members and require us to comply with certain legal requirements. Evolve discretionary actions under these agreements could impose material limitations to, or have a material adverse effect on, our business, financial condition and results of operations. In addition, any disruptions or restrictions on Evolve’s operations could have an adverse effect on our business, financial condition and results of operations. For example, in May 2024, Evolve experienced a cybersecurity incident that resulted in the leak of certain customer information, including information of some of our Members. If our relationship with Evolve is terminated or Evolve becomes unable to provide the necessary services to us, we would need to find another financial institution to provide those services, which could be difficult and expensive. If we are unable to find a replacement financial institution to provide the services we receive from Evolve, we would not be able to offer ExtraCash advances, service our deposit accounts, debit cards and other services, which would have a material adverse effect on our business, financial condition and results of operations. Furthermore, our financial results could be adversely affected if our costs associated with using Evolve materially change or if any penalty or claim for damages is imposed as a result of our breach of our agreements with Evolve.

In addition, state and federal agencies have broad discretion in their interpretation of laws and requirements related to bank partnership programs and may elect to alter standards or the interpretation of the standards applicable to these programs. The uncertainty of the federal and state regulatory environments around bank partnership programs means that our efforts to launch products and services through bank partners may not ultimately be successful, or may be restricted or challenged by legislation or regulatory action. If the legal structure underlying our relationship with Evolve were to be successfully challenged or otherwise restricted, we would need to find an alternative bank relationship. Furthermore, Evolve or any other future bank partners could be subject to enforcement actions, civil monetary penalties, supervisory orders to cease and desist or other remedial actions, which, even if unrelated to our business, could impose restrictions on the bank partner’s ability to continue to extend credit on current terms or offer services that are required for certain of our products. For example, in June 2024, the Federal Reserve Board issued a cease and desist order against Evolve for alleged deficiencies in its anti-money laundering, risk management and consumer compliance programs. Federal or state regulators may also subject us to increased compliance, legal and operational costs, and could subject our business model to scrutiny and otherwise increase our regulatory requirements, or may adversely affect our ability to expand our business.

Cyberattacks and other security breaches or disruptions suffered by us or third parties upon which we rely could have a materially adverse effect on our business, harm our reputation and expose us to public scrutiny and liability.

In the normal course of business, we collect, process, use and retain sensitive and confidential information regarding our Members and prospective Members, including data provided by and related to Members and their transactions, as well as other data of the counterparties to their payments. We also have arrangements in place with certain third-party service providers that require us to share consumer information for servicing purposes. Information security risks in the financial services industry continue to increase

generally, in part because of new technologies, the use of the Internet and telecommunications technologies (including mobile devices) to conduct financial and other business transactions and the increased sophistication and activities of organized criminals, perpetrators of fraud, hackers, terrorists and other malicious third parties. In addition to cyberattacks and other security breaches involving the theft of sensitive and confidential information, hackers, terrorists, sophisticated nation-state and nation-state supported actors and other malicious third parties recently have engaged in attacks that are designed to disrupt key business services, such as consumer-facing applications and websites.

These cybersecurity challenges, including threats to our own IT infrastructure or those of third-party providers, may take a variety of forms ranging from stolen bank accounts, business email compromise, user fraud, account takeover, check fraud or cybersecurity attacks, such as ransomware, unauthorized encryption, denial-of-service attacks, social engineering, unauthorized access, spam or other attacks, to "mega breaches" targeted against cloud-based services and other hosted software, which could be initiated by individual or groups of hackers or sophisticated cyber criminals. A cybersecurity incident or breach could result in disclosure of confidential information and intellectual property, or cause service interruptions and compromised data. We may be unable to anticipate or prevent techniques used in the future to obtain unauthorized access or to sabotage systems because they change frequently and often are not detected until after an incident has occurred. Our information technology and infrastructure, as well as those of our third-party service providers, have experienced breaches and may be subject or vulnerable in the future to breaches or attacks. For example, a third-party breach resulted in improper disclosure of certain of our Members' information, and any future improper disclosure of our own confidential business information or the information of our Members could materially and adversely affect our business. A core aspect of our business is the reliability and security of our platform. Any perceived or actual breach of security, regardless of how it occurs or the extent of the breach, could have a significant impact on our reputation as a trusted brand, cause us to lose existing partners or Members, prevent us from obtaining new partners and Members, require us to expend significant funds to remedy problems caused by breaches and implement measures to prevent further breaches, and expose us to legal risk and potential liability including from governmental or regulatory investigations, class action litigation and other lawsuits. If sensitive information is lost or improperly disclosed through a data breach or otherwise or threatened to be disclosed, we could experience a loss of confidence by our partners and Members in the security of our systems, products and services and prevent us from obtaining new partners and Members, and we could incur significant costs to remedy problems caused by breaches and implement measures to prevent further breaches, and expose us to legal risk and potential liability and penalties, including from governmental or regulatory investigations, class action litigation and other lawsuits, all of which could adversely affect our reputation and our operating results. Any actual or perceived security breach at a company providing services to us or our Members could have similar effects.

Most jurisdictions have enacted laws requiring companies to notify individuals, regulatory authorities and others of security breaches involving certain types of data. In addition, our agreements with certain partners and service providers may require us to notify them in the event of a security breach. Such mandatory disclosures are costly, could lead to negative publicity, may cause our Members to lose confidence in the effectiveness of our security measures and require us to expend significant capital and other resources to respond to and/or alleviate problems caused by the actual or perceived security breach. A security breach of any of our vendors that processes personally identifiable information of our Members may pose similar risks.

In May 2020, an unauthorized third party attempted to gain access to Dave Member accounts and was able to access Member profiles and Members' partial or incomplete bank account information. We did not uncover any evidence that the attacker was able to take any actions with respect to the data, other than gaining read access to it, nor do we believe any unauthorized transactions were made or advances requested on our platform. We provided notice to relevant parties as required under applicable law and agreements and took steps to set up alerts to detect abnormal request volumes and introduced rate limiting at the IP address level. In addition, in June 2020, we were notified of an unauthorized third party breach of our Dave database. The third party was able to access to Dave's system by breaching the system of one of Dave's third party service providers. The attacker was able to download a large data set, including encrypted social security numbers for some Members; however, there was no evidence that unauthorized transactions were made or advances requested on our platform, nor do we believe that the third party gained access to decryption keys or was otherwise able to decrypt encrypted information. The May 2020 and June 2020 incidents are collectively referred to herein as the "2020 Incidents." We took remedial measures, including the engagement of an outside security consultant to monitor for ongoing dark web activity and to conduct a security audit and incident investigation, and notified relevant parties as required under applicable law and agreements. As a result of the 2020 Incidents, we are in the process of settling a purported class action in California for approximately $3.1 million and we settled individual claims outside of California for approximately $4.4 million. See Item 1. Legal Proceedings. In addition, in 2024, one of our third-party service providers experienced a data breach that resulted in improper disclosure of certain of our Members' information. As we have increased our Member base and our brand has become more widely known and recognized, third parties may continue to seek to compromise our security controls or gain unauthorized access to our sensitive corporate information or our Members' data.

If our banking partner or other strategic partners were to conclude that our systems and security policies and procedures are insufficiently rigorous, they could terminate their relationships with us, and our financial results and business could be adversely

affected. Under our terms of service and our contracts with strategic partners, if there is a breach of non-public personal information of our Members that we store, we could be liable to the partner for their losses and related expenses.

Additionally, as computer malware, viruses, and computer hacking, fraudulent use attempts, and phishing attacks have become more prevalent, we, and third parties upon which we rely, face increased risk in maintaining the performance, reliability, security, and availability of our solutions and related services and technical infrastructure to the satisfaction of our Members. Any computer malware, viruses, computer hacking, fraudulent use attempts, phishing attacks, or other data security breaches related to our network infrastructure or information technology systems or to computer hardware we lease from third parties, could, among other things, harm our reputation and our ability to retain existing Members and attract new Members.

Our insurance may be insufficient or may not cover all liabilities incurred by cybersecurity incidents. We also cannot be certain that our insurance coverage will be adequate for data handling or data security liabilities actually incurred, that insurance will continue to be available to us on economically reasonable terms, or at all, or that any insurer will not deny coverage as to any future claim. The successful assertion of one or more large claims against us that exceed available insurance coverage, or the occurrence of changes in our insurance policies, including premium increases or the imposition of large deductible or co-insurance requirements, could have a material adverse effect on our business, including our financial condition, operating results, and reputation.

Our business is subject to extensive regulation and oversight in a variety of areas under federal, state and local laws, and is subject to regulatory investigations and consumer litigation.

We are subject to extensive regulation under United States federal and state laws and regulations. Regulators have broad discretion with respect to the interpretation, implementation, and enforcement of these laws and regulations, including through enforcement actions that could subject us to civil money penalties, Member remediation, increased compliance costs, and limits or prohibitions on our ability to offer certain products or services or to engage in certain activities. Any failure or perceived failure to comply with any of these laws or regulations could subject us to lawsuits or governmental actions and/or damage our reputation, which could materially and adversely affect our business. Moreover, any competitors subject to different, or in some cases less restrictive, legislative or regulatory regimes may have or obtain a competitive advantage over us.

We are subject to the regulatory and enforcement authority of the Consumer Financial Protection Bureau ("CFPB"), which oversees compliance with federal consumer financial protection laws. In addition, our partnership with Evolve is subject to the supervisory authority of the Federal Reserve, which is Evolve's primary federal bank regulator. The CFPB has broad enforcement powers, and upon determining a violation of applicable law has occurred can order, among other things, rescission or reformation of contracts, the refund of moneys, restitution, disgorgement or compensation for unjust enrichment, the payment of damages or other monetary relief, public notifications regarding violations, limits on activities or functions, remediation of practices, external compliance monitoring and civil money penalties. The cost of responding to investigations can be substantial and an adverse resolution to an investigation, including a consent order or other settlement, may have a material adverse effect on our business, financial position, results of operations and future prospects.

For example, on November 5, 2024, the Federal Trade Commission (the "FTC") filed a civil complaint against us alleging violations of Section 5(a) of the FTC Act and the Restore Online Shoppers' Confidence Act related to our platform and offering of our ExtraCash product. The complaint seeks a permanent injunction, monetary relief for an unspecified amount and "other relief as the court determines to be just and proper." Given the outcome of any case in litigation is uncertain, for the period ending September 30, 2024, we have recorded a $7 million litigation and settlement accrual for this matter. Significant changes in the accrual may be required in future periods as the case progresses and additional information becomes available. At this time, we are unable to reasonably predict the possible outcome of this matter due to, among other things, the fact that it raises difficult factual and legal issues and is subject to many uncertainties and complexities. There can be no assurance that we will be successful in the litigation, and we may incur a loss in excess of the amount accrued. The defense or resolution of this matter could involve significant monetary costs and have a material impact on our business, financial results and operations. See Note 11, "Commitments and Contingencies," to the condensed consolidated financial statements for additional information.

In addition, we are also subject to consumer litigation, including putative consumer class actions which allege that we violate federal and/or state laws regulating the financial services industry. For example, in July 2022, a purported class action *Lopez v. Dave, Inc.* was filed in the U.S. District Court for the Northern District of California alleging violations of California consumer protection laws and state and federal lending laws, among other things, and we settled this matter in July 2024. In December 2022, a purported class action *Golubiewski and Checchia v. Dave, Inc.* was filed in the U.S. District Court for the Middle District of Pennsylvania alleging similar violations under Pennsylvania state and federal laws. We are actively litigating this matter and cannot estimate the likely outcome at this time.

Our "terms of use" for the Dave App as well as the Evolve agreements related to the ExtraCash and deposit accounts include arbitration clauses. If our arbitration agreements were to become unenforceable for any reason, we could experience an increase to our consumer litigation costs and exposure to potentially damaging class action lawsuits. Even if our arbitration clause remains enforceable, we may be subject to mass arbitrations in which large groups of consumers bring arbitration claims against the Company simultaneously.

We have been and may in the future also be subject to investigations and potential enforcement actions that may be brought by state regulatory authorities, state attorneys general or other state enforcement authorities and other governmental agencies. Any such actions could subject us to civil money penalties and fines, Member remediation, and increased compliance costs, damage our reputation and brand and limit or prohibit our ability to offer certain products and services or engage in certain business practices. Further, in some cases, regardless of fault, it may be less time-consuming or costly to settle these matters, which may require us to implement certain changes to our business practices, provide remediation to certain individuals or make a settlement payment to a given party or regulatory body.

The financial services industry continues to be highly regulated and subject to new laws or regulations in many jurisdictions, including the U.S. states in which we operate, which could restrict the products and services we offer, impose additional compliance costs on us, render our current operations unprofitable or even prohibit our current or future operations.

We are required to comply with frequently changing federal, state, and local laws and regulations that regulate, among other things, the terms of the financial products and services we offer. New laws or regulations may require us to incur significant expenses to ensure compliance. Federal and state regulators of consumer financial products and services are also enforcing existing laws, regulations, and rules more aggressively, and enhancing their supervisory expectations regarding the management of legal and regulatory compliance risks. For example, State attorneys general have indicated that they will take a more active role in enforcing consumer protection laws, including through the establishment of state consumer protection agencies as well as the use of Dodd-Frank Act provisions that authorize state attorneys general to enforce certain provisions of federal consumer financial laws and obtain civil money penalties and other relief available to the CFPB.

In addition, regulators are interpreting existing laws, regulations and rules in new and different ways as they attempt to apply them to novel products and business models such as ours. The regulatory landscape in which we operate continues to evolve, and the CFPB has issued several interpretive statements and guidance that could impact our business practices. For example, in July 2024, the CFPB proposed interpretive rule on paycheck advance and earned wage access, a model which Dave was originally founded on but transitioned away from beginning in 2022. If the CFPB determines that our current business model and practices fall within the scope of the proposed interpretive rule, we could be subject to additional regulatory requirements and scrutiny. Moreover, "True lender" challenges of bank partnership arrangements for credit products (such as the arrangement for ExtraCash) are being raised at the federal and state levels, and banking as a service arrangements (such as the arrangements for our deposit accounts) are subject to heightened scrutiny. Changes in the laws, regulations and enforcement priorities applicable to our business, or changes in the way existing laws and regulations are interpreted and applied to us, could have a material impact on our business model, operations and financial position. In some cases, these measures could even directly prohibit some or all of our current business activities in certain jurisdictions or render them unprofitable and/or impractical to continue.

The application of traditional federal and state consumer protection statutes and related regulations to innovative products offered by financial technology companies such as us is often uncertain, evolving and unsettled. To the extent that our products are deemed to be subject to any such laws, we could be subject to additional compliance obligations, including state licensing requirements, disclosure requirements and usury or fee limitations, among other things. Application of such requirements and restrictions to our products and services could require us to make significant changes to our business practices (which may increase our operating expenses and/or decrease revenue) and, in the event of retroactive application of such laws, subject us to litigation or enforcement actions that could result in the payment of damages, restitution, monetary penalties, injunctive restrictions, or other sanctions, as well as unenforceability of the advances facilitated through our platform, any of which could have a material adverse effect on our business, financial position, and results of operations.

Further, we may not be able to respond quickly or effectively to regulatory, legislative, and other developments, and these changes may in turn impair our ability to offer our existing or planned features, products, and services and/or increase our cost of doing business. In addition, we expect to continue to launch new products and services in the coming years, which may subject us to additional legal and regulatory requirements under federal, state and local laws and regulations. To the extent the application of these laws or regulations to our new offerings is unclear or evolving, including changing interpretations and the implementation of new or varying regulatory requirements by federal or state governments and regulators, this may significantly affect or change our proposed business model, increase our operating expenses and hinder or delay our anticipated launch timelines for new products and services.

Due to our bank partnership model, we are and will continue to be subject to third-party risk management obligations, our business model may need to be substantially altered and we may not be able to continue to operate our business as it is currently operated.

Banking products made available through us by our bank partner remain subject to regulation and supervision by our bank partner's regulators and we, as a service provider to our bank partner, undertake certain compliance obligations. If we were to become directly subject to banking regulations or if the third-party risk management requirements applicable to us were to change, our business model may need to be substantially altered and we may not be able to continue to operate our business as it is currently operated. Failure by us, or any of our business partners, to comply with applicable laws and regulations could have a material adverse effect on our business, financial position and results of operations.

If we were found to be operating without having obtained necessary state or local licenses, it could adversely affect our business, results of operations, financial condition, and future prospects.

Certain states have adopted laws regulating and requiring licensing, registration, notice filing, or other approval by parties that engage in certain activities regarding consumer finance transactions. We have also received inquiries from state regulatory agencies regarding requirements to obtain licenses from or register with those states, including in states where we have determined that we are not required to obtain such a license or be registered with the state, and we expect to continue to receive such inquiries. The application of certain consumer financial licensing laws to our platform and the related activities it performs is not always clear, and regulatory agencies may not agree with our determinations on the applicability of such laws to us. In addition, state licensing requirements may evolve over time, including, in particular, recent trends in legislation seeking to impose licensing requirements and regulation of parties engaged in the business of offering "earned wage access" products to consumers. For example, in 2023, the banking regulators in Connecticut and Maryland issued guidance (and in the case of Maryland, a regulatory change) (collectively, "State Regulatory Changes") indicating that traditional "earned wage access" products would, under certain circumstances, be considered small loans under the state lending laws, and that optional fees and tips, under certain circumstances, would be finance charges for purposes of calculating the interest rate under the state's applicable usury limit. These State Regulatory Changes would subject those covered by them to licensure and limitations or prohibitions on certain charges. Although we do not believe that our ExtraCash overdraft product offered through Evolve is covered by the State Regulatory Changes, we have recently received separate inquiries from the Connecticut and Maryland banking regulators as to whether the ExtraCash product is subject to the State Regulatory Changes, as well as a subpoena from the Maryland Attorney General requesting information regarding any earned wage access and related products that we offer in the state of Maryland. Although we believe that our practices and products offered at all times in Maryland and Connecticut have been in compliance with applicable law, the defense or resolution of these matters could involve significant monetary costs or penalties and have a significant impact on our financial results and operations.

If we were found to be in violation of applicable state licensing or other requirements by a court or a state, federal, or local enforcement agency, or agree to resolve such concerns by voluntary agreement, we could be subject to or agree to pay fines, damages, injunctive relief (including required modification or discontinuation of our business in certain areas), criminal penalties, and other penalties or consequences, and the ExtraCash receivables facilitated through our platform could be rendered void in whole or in part, any of which could have an adverse effect on our business, results of operations, and financial condition. Additionally, in December 2021, we entered into a Memorandum of Understanding ("MOU") with the California Department of Financial Protection and Innovation ("CA DFPI"). The MOU required us to provide the CA DFPI with certain information as requested by the CA DFPI and adhere to certain practices in connection with our prior advance product (including certain disclosures related to us not being licensed by the CA DFPI). The CA DFPI finalized a new California Consumer Finance Protection Law regulation, effective February 15, 2025, which requires providers of income-based advances (and other providers) to register with the DFPI (the "DFPI Regulation.") The DFPI Regulation has an exemption for bank-issued products such as ExtraCash. The MOU will terminate on the DFPI Regulation's effective date. It is possible that the DFPI may not agree with the Company's interpretation of the DFPI Regulation and if we were found to be in violation of the DFPI Regulation, we could be subject to fines, damages, injunctive relief, and other penalties or consequences.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

None

Item 3. Defaults Upon Senior Securities.

None

Item 4. Mine Safety Disclosures.

None

Item 5. Other Information

None

Item 6. Exhibits

Exhibit No.	Description
3.1	Second Amended and Restated Certificate of Incorporation of Dave Inc. (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the Commission on January 11, 2022)
3.2	Amended and Restated Bylaws of Dave Inc. (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K filed with the Commission on January 11, 2022)
10.1+†	Bank Services Agreement, dated July 13, 2020, by and between Evolve Bank & Trust and Dave Inc.
10.2+	First Amendment to Bank Services Agreement, dated August 8, 2024, by and between Evolve Bank & Trust and Dave Operating LLC.
10.3+†	Debit Card Issuing Agreement, dated July 13, 2020, by and between Evolve Bank & Trust and Dave Inc.
10.4+†	Service Agreement, dated March 18, 2020, by and between Dave, Inc. and Galileo Financial Technologies, Inc.
10.5+†	First Amendment to Service Agreement, dated January 31, 2023, by and between Dave Operating LLC and Galileo Financial Technologies, LLC.
10.6†	Second Amendment to Service Agreement, dated May 4, 2023, by and between Dave Operating LLC and Galileo Financial Technologies, LLC.
10.7†	Third Amendment to Service Agreement, dated August 13, 2024, by and between Dave Operating LLC and Galileo Financial Technologies, LLC.
10.8†	PCI Addendum to Service Agreement, dated October 12, 2022, by and between Dave Operating LLC and Galileo Financial Technologies, LLC.
10.9++	Amended Non-Employee Director Compensation Policy, dated April 24, 2024.
31.1	Certification of the Chief Executive Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934, as adopted pursuant to §302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of the Chief Financial Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934, as adopted pursuant to §302 of the Sarbanes-Oxley Act of 2002
32.1*	Certification of the Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002
101.INS	Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the inline XBRL document.
101.SCH	Inline XBRL Taxonomy Extension Schema Document With Embedded Linkbase Documents.
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).

+ Certain exhibits and schedules have been omitted in accordance with Item 601(a)(5) of Regulation S-K.

† Certain identified information has been redacted in accordance with Item 601(b)(2)(ii) or 601(b)(10)(iv) of Regulation S-K, as applicable.

++ Indicates a management contract or compensatory plan, contract or arrangement.

* Furnished and not filed.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: November 12, 2024

Dave Inc.

By: /s/ Jason Wilk
Jason Wilk
Title: Chief Executive Officer

Dated: November 12, 2024

DAVE INC.

By: /s/ Kyle Beilman
Kyle Beilman
Title: Chief Financial Officer

CERTAIN INFORMATION IN THIS DOCUMENT, MARKED BY [**], HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10)(iv). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

Bank Services Agreement Cover Page

This Bank Services Agreement ("Agreement") is entered into as of the 13th day of July, 2020 ("Effective Date") by and between Evolve Bank & Trust, an Arkansas state bank, ("Bank") and Dave Inc., a Delaware corporation ("Company" or "Program Manager"). For purposes of this Agreement, Bank and Company each will be referred to individually as a "Party" and together as the "Parties."

Notices: Notices required under this Agreement shall be delivered pursuant to Section 30, and addressed as set forth below

If to Bank:	If to Company:
Evolve Bank & Trust	Dave Inc.
6070 Poplar Avenue, Suite 100	1265 S. Cochran Avenue
Memphis, Tennessee 38119	Los Angeles, California 90019
Attention: Legal Department	Attention: Legal

Program Manager Reserve Account/Amount.

Company shall maintain an interest bearing deposit account at Bank which holds the reserve amounts deposited by Company pursuant to this Section ("Program Manager Reserve Account"). Company shall deposit an amount equal to the Initial Reserve Requirement as found on the Enterprise Fee Schedule on or before the Effective Date and shall maintain such amount in the Program Manager Reserve Account for the first three (3) full months following the Effective Date (the "Initial Reserve Requirement"). Upon the three-month anniversary of the Effective Date, Company shall ensure the Program Manager Reserve Account maintains a balance equal to [**] (the "Reserve Amount"). Subject to the Initial Reserve Requirement and the prior notice as set forth below, the Reserve Account shall be reassessed and adjusted every month based on (i) and (ii) in the immediately preceding sentences; provided, however, if any Regulatory Authority with jurisdiction over Bank notifies Bank that the Reserve Amount is inadequate to cover the risks associated with the Program, Bank shall provide notice to Program Manager of the Regulatory Authority's finding and of the Reserve amount that will be a sufficient reserve to satisfy the Regulatory Authority, and such amount shall be the new Reserve Amount. Negative Outcomes means the amount of ACH Return, provisional credits (net any provisional credits that are returned to Bank), and chargebacks (net any chargebacks that are returned to Bank), in each case that result in a debit to the FBO Account (as referenced as EB&T FBO Dave Inc Users account) or the Program Manager Reserve Account (provided, for clarification, that any individual debit shall only be counted once for purposes of determining the Program Manager Reserve Account balance, even if such debit is evident in more than one such account), plus the amount reasonably determined by Bank to offset risks associated with any material breach of this Agreement or the Debit Card Issuing Agreement by Program Manager. Subject to the terms in the Program Manager Reserve Account Section of the Debit Card Issuing Agreement, Bank may, deviate from this reserve calculation and require a greater Reserve Amount. Bank will provide written notice of the Reserve Amount within 30 days after the end of each month. In the event the actual balance in Program Manager Reserve Account is less than the Reserve Amount and the deficiency is not cured within two (2) Business Days after notice from Bank to Company, then Bank shall have the right to terminate the Program and this Agreement at no liability to Bank.

To secure Company's obligations under this Agreement, Company hereby grants Bank a first priority security interest in the Program Manager Reserve Account and the funds therein or proceeds thereof, and agrees that Bank has control of the Program Manager Reserve Account for purposes of the Uniform Commercial Code, Article 9-314. Company further agrees to take such steps as Bank may reasonably require to perfect or protect such first priority security interest. Bank shall have all of the rights and remedies of a secured party under Applicable Law with respect to the Program Manager Reserve Account and the funds therein or proceeds thereof, and shall be entitled to exercise those rights and remedies in its discretion upon a default by Company of any provision of this Agreement. Without limiting the forgoing, Bank may, without prior notice, exercise a right of set-off against the Program Manager Reserve Account for amounts due under this Agreement and exercise all other rights and remedies provided in this Agreement or the Uniform Commercial Code. Company agrees that it will maintain the lien against the Program Manager Reserve Account in favor of Bank and agrees that it will not grant any other party an interest in the Program Manager Reserve Account. Company authorizes Bank to withdraw funds from the Program Manager Reserve Account to cover any amounts due to it under this Agreement, including losses incurred by in connection with this Agreement.

IN WITNESS WHEREOF, this Agreement is executed by the Parties' authorized officers or representatives and shall be effective as of the date below.

Bank: **Evolve Bank & Trust** **Company**: **Dave Inc.**

By: /S/ Scot Lenoir By: /S/ Jason Wilk

Name: Scot Lenoir Name: Jason Wilk

Title: Chairman Title: CEO

Date: 7/14/2020 Date: 7/13/2020

EVOLVE
bank & trust

BANK SERVICES AGREEMENT

WHEREAS, Bank is a depository institution and state member bank of the Federal Reserve, with its deposits insured by the Federal Deposit Insurance Corporation ("FDIC"); and

WHEREAS, Bank is a member of the National Automated Clearing House Association ("NACHA") and is in the business, among other things, of originating and receiving ACH Entries and establishing and maintaining deposit accounts in connection therewith; and

WHEREAS, Bank and Company have entered into that certain Debit Card Issuing Agreement, dated as of the Effective Date hereof, in order for Company to support Bank's issuance of certain debit cards used to access Deposit Accounts (the "Debit Card Issuing Agreement"); and

WHEREAS, the Parties desire to establish a program under which the Parties will offer Customers access to Deposit Accounts, issued and maintained by Bank, into which such Customers can deposit funds and access such funds using a Card (as defined in the Debit Card Issuing Agreement) issued pursuant to the Debit Card Issuing Agreement, as more fully described in Schedule A (the "Program"); and

WHEREAS, Bank agrees to establish the accounts for the Program pursuant to the terms and conditions set forth herein; and

WHEREAS, the Parties wish to establish the terms and conditions to provide and receive certain services from each other in connection with the Program.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, the receipt and sufficiency of which is acknowledged, the Parties hereto, intending to be legally bound, agree as follows:

1. **Definitions**. Except as otherwise specifically indicated in this Section 1 or elsewhere in this Agreement, capitalized terms used in this Agreement shall have the meanings set forth in the NACHA Rules (as defined below):

(a) "ACH Operator" shall have the meaning as defined in the NACHA Rules.

(b) "Account Policies or Account Policy" means the Program Manager's compliance policies and procedures, as submitted to and approved by Bank.

(c) "Agent" means any third party service provider, processor, subcontractor or agent used by Company in connection with the Program.

(d) "Aggregated De-Identified Data" has the meaning provided in Section 14(c).

(e) "Agreement" shall have the meaning provided in the Preamble.

(f) "Applicable Law" means any federal, state and local statutes, rules, regulations, regulatory guidelines and judicial or administrative interpretations related to this Agreement, the Services, Program and/or the Program services, as well as any rules or requirements established by the FDIC, Federal Reserve Board, Arkansas State Bank Department, Tennessee Department of Financial Institutions, the Equal Credit Opportunity Act and Regulation B, FACT Act, any laws and regulations regulating unfair, deceptive and abusive acts or practices, all anti-money laundering laws and regulations, including the Bank Secrecy Act as amended by the USA PATRIOT ACT of 2001 and regulations administered by the U.S. Department of Treasury's OFAC, the Gramm-Leach-Bliley Act, Uniform Commercial Code as in effect in the State of New York and laws on bank branching.

(g) "Applicant" means a consumer who submits an Application or other request for a Deposit Account.

(h) "Application" means the action or document by which a consumer requests and applies for a Deposit Account from Bank.

(i) "Application Processing" means those services necessary to establish and support a Deposit Account in accordance with Applicable Law. Such services shall include but are not be limited to: application of the Account Policy to incoming Applications, OFAC and anti-money laundering screening, customer service, statement and disclosure preparation and issuance, regulatory compliance, security and fraud control, and activity reporting.

(j) "Auditing Party" has the meaning provided in Section 8(d)(i).

(k) "Bank" shall have the meaning provided in the Preamble.

(l) "Bank Marks" has the meaning provided in Section 15(a).

(m) "Bank Systems" has the meaning provided in Section 29.

(n) "Breach Indemnitee" has the meaning provided in Section 11(f).

(o) "Breached Party" has the meaning provided in Section 11 (c)(i).

(p) "BSA/AML/OFAC Program" has the meaning provided in Section 8(a).

(q) "Business Day" means Monday through Friday, excluding federal banking holidays.

(r) "Calculation Date" has the meaning provided in Section 8(h).

(s) "CFPB" means Consumer Financial Protection Bureau.

(t) "Company" or "Program Manager" has the meaning provided in the preamble.

(u) "Company Marks" has the meaning provided in Section 15(b).

(v) "Confidential Information" means any and all information that is disclosed by one Party to the other Party and that relates to a Party's business or the Parties' business relationship hereunder, including information concerning finances, products, services, customers and suppliers. Confidential Information shall not include information which (i) is in or comes into the public domain without breach of this Agreement by the receiving Party; (ii) was in the possession of the receiving Party prior to receipt from the disclosing Party and was not acquired by the receiving Party from the disclosing Party under an obligation of confidentiality or nonuse; (iii) is acquired by the receiving Party from a third party not under an obligation of confidentiality or nonuse to the disclosing Party; or (iv) is independently developed by the receiving Party without use of any Confidential Information of the disclosing Party.

(w) "Customer" has the meaning provided in Schedule A.

(x) "Cure Period" has the meaning provided in Section 16(b).

(y) "Deposit Account" has the meaning provided in Schedule A.

(z) "Deposit Account Agreement" means the agreement between Customer and Bank governing the Deposit Account.

(aa) "Depositor Information" means all information, whether personally identifiable or in aggregate, that is submitted and/or obtained by Bank about a Deposit Account or a Deposit Account application (whether or not completed), including demographic data, and transaction data.

(bb) "Deposits" means generally an unpaid balance of money received or held by Bank for the benefit of Customers in the Deposit Account, as further defined by 12 U.S.C. 1813(l) as amended and FDIC Rules.

(cc) "Effective Date" means the date first written above.

(dd) "Entry" shall have the meaning as defined in the NACHA Rules.

(ee) "Exposure Settlement Limits" means the maximum daily exposure limit set by the Bank in writing on debit Entries submitted under this Agreement, excluding all transactions relating to credit Entries, Wire Services or deposits held in any Deposit Account, equal to [**] multiplied by the then-current Reserve Amount, or such other amount agreed to by the Parties.

(ff) "FBO Account" has the meaning provided in Schedule A.

(gg) "FDIC" means Federal Deposit Insurance Corporation.

(hh) "FDIC Insurance" means the insurance of Bank's deposits by the FDIC.

(ii) "Force Majeure Event" has the meaning provided in Section 17.

(jj) "Initial Term" has the meaning provided in Section 16(a).

(kk) "Insolvent" means the failure to pay debts in the ordinary course of business, the inability to pay its debts as they come due or the condition whereby the sum of an entity's debts is greater than the sum of its assets.

(ll) "Intellectual Property" means (i) inventions, improvements, patents (including all reissues, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof) and patent applications, (ii) trademarks, service marks, trade names and trade dress, together with the goodwill associated therewith, (iii) works of authorship and copyrights, including copyrights in computer software, databases and television programming and all rights related thereto, (iv) confidential and proprietary information, including trade secrets and know how, (v) processes, methods, procedures and materials, (vi) data, databases and information, (vii) software, tools and machine-readable texts and files, (viii) literary work or other work of authorship, including documentation, reports, drawings, charts, graphics, and other written documentation, together with all copyrights and moral rights, (ix) all other proprietary rights, and (x) all registrations and applications for registration and other intellectual property rights in or appurtenant to the foregoing items described in clauses (i) through (ix) above.

(mm) "Marketing Activities" means all advertising media of any kind or nature, in whole or in part, including without limitation, catalogs, email solicitation messages, published advertising (such as newspaper and magazine advertisements), SMS text messaging, Internet media, blogs, tweet posts, banner ads, RSS feeds, telemarketing scripts, television or radio advertisements, frequently asked questions, promoting, advertising and/or marketing the Program or Deposit Account.

(nn) "Marketing Materials" means categories of marketing messages intended to market the Program or Deposit Account or to generate demand for the origination of Deposit Accounts from a targeted population delivered through various Marketing Activities.

(oo) "Membership" means collectively Network Membership and Bank's status as a member bank in the FDIC.

(pp) "NACHA" has the meaning provided in the preamble.

(qq) "NACHA Rules" means the rules and regulations provided by NACHA.

(rr) "Network Membership" means the membership of Bank in NACHA and any other applicable Network.

(ss) "NOC" has the meaning provided in 10(i).

(tt) "On-Us Entry" has the meaning provided in Section 10(c).

(uu) "OFAC" means Office of Foreign Asset Controls.

(vv) "Origination Services" mean Bank's transmission of any credit Entry, debit Entry or Nonmonetary Entry to a Receiver's account at an RDFI as more particularly set forth in this Agreement.

(ww) "Originator" shall have the meaning as defined in the NACHA Rules.

(xx) "Party" and "Parties" have the meaning provided in the preamble.

(yy) "Person" means any natural or legal person, including any individual, corporation, partnership, limited liability company, trust or unincorporated association, or other entity.

(zz) "Principal" means any Person directly or indirectly owning ten percent (10%) or more of Company, and any executive officer or director of Company.

(aaa) "Program Manager Reserve Account" has the meaning provided in Section 8(h).

(bbb) "Program Materials" shall have the meaning provided in Section 7(a).

(ccc) "Program Start Date" means the date the first Deposit Account is established by a Customer following the commercial launch of the Program.

(ddd) "Qualifying Change" shall have the meaning provided in Section 5(c).

(eee) "RDFI" shall have the meaning as defined in the NACHA Rules.

(fff) "Receiver" shall have the meaning as defined in the NACHA Rules.

(ggg) "Records" means any Deposit Account Agreements, Applications, change-of-terms notices, Deposit Account files, credit bureau reports, copies of notices, transaction data, records or other documentation (including computer tapes, magnetic or electronic files, and information in any other format) related to the Deposit Accounts or the Program.

(hhh) "Regulatory Authority" means any federal, state or local regulatory agency or other governmental agency or authority having jurisdiction over Bank or Company, including, but not limited to, the CFPB and FDIC.

(iii) "Regulatory Communication" has the meaning provided in Section 8(f)(ii).

(jjj) "Renewal Term" has the meaning provided in Section 16(a).

(kkk) "Reserve Amount" has the meaning set forth on the Cover Page of this Agreement.

(lll) "Rules" means any and all applicable federal, state, local or organizational rules applicable to each Party in connection with its activities contemplated by this Agreement, including rules promulgated by the Board of Governors of the Federal Reserve or the FDIC, Visa rules, Mastercard rules, network rules and NACHA rules.

(mmm) "SAR" has the meaning provided in Section 8(g).

(nnn) "SEC" has the meaning provided in Section 14(d).

(ooo) "Security Breach" means (i) any act or omission that materially compromises either the security, confidentiality or integrity of data or the physical, technical, administrative or organizational safeguards put in place by a Party or a third-party service provider that relate to the protection of the security, confidentiality or integrity of data relating to the Program, or (ii) receipt of a complaint in relation to the privacy and data security practices of a Party or a third-party service provider or a breach or alleged breach of this Agreement relating to such privacy and data security practices. Without limiting the foregoing, a material compromise shall include any unauthorized access to, unauthorized disclosure of or unauthorized acquisition of nonpublic personal information.

(ppp) "Security Program" means a comprehensive, written information security program that contains appropriate administrative, technical and physical safeguards designed to (i) protect the security, confidentiality and integrity of nonpublic personal information; (ii) ensure against any anticipated threats or hazards to the security and integrity of nonpublic personal information; (iii) protect against unauthorized access to or use of nonpublic personal information that could result in substantial harm or inconvenience to any Customer, potential Customer or any Applicant; and (iv) ensure the proper disposal of nonpublic personal information.

(qqq) "Services" has the meaning provided in Schedule A.

(rrr) "Specifications" has the meaning provided in Section 29.

(sss) "Substantive Change" means a change to the Marketing Activities; a change to the categories of the Marketing Materials; a material, non-administrative or non-ministerial change to the content of any Marketing Materials; any items required by Applicable Law; or requirements identified by Bank in good faith as necessary due to safety and soundness or reputational concerns.

(ttt) "Successor Bank" has the meaning provided in Section 16(i).

(uuu) "Term" means the period commencing on the Effective Date and terminating as set forth in Section 16(a) hereof.

(vvv) "Third Party Sender" shall have the meaning as defined in the NACHA Rules.

(www) "Transfer" has the meaning provided in Section 16(i).

(xxx) "Transition Plan" has the meaning provided in Section 16(i).

(yyy) "Transition Period" has the meaning provided in Section 16(i).

(zzz) "Wind Down" has the meaning provided in Section 16(i).

2. **The Program**. Beginning on the Effective Date, the Parties agree to launch the Program on the terms and conditions provided for in this Agreement and as further described in Schedule A.

3. **Party Representations and Warranties**. Each Party represents and warrants to the other Party as follows:

(a) Such Party is duly organized, validly existing and in good standing under the laws of the state of jurisdiction of its formation and has full corporate power and authority to execute, deliver, and perform its obligations under this Agreement; the execution, delivery and performance of this Agreement has been duly authorized, and is not in conflict with and does not violate the terms of the charter or bylaws of the Party and will not result in a breach of or constitute a default under, or require any consent under, any indenture, loan or agreement to which the Party is a party;

(b) Such Party is not Insolvent;

(c) Except otherwise disclosed in writing prior to the Effective Date, there are no proceedings or investigations pending or, to the best knowledge of such Party, threatened against the Party (1) asserting the invalidity of this Agreement, (2) seeking to prevent the consummation of any of the transactions contemplated by the Party pursuant to this Agreement, (3) seeking any determination or ruling that, in the reasonable judgment of the Party, would materially and adversely affect the performance by the Party of its obligations under this Agreement, (4) seeking any determination or ruling that would materially and adversely affect the validity or enforceability of this Agreement, or (5) that would have a materially adverse on the Party's operations if resolved adversely to it;

(d) All approvals, authorizations, licenses, registrations, consents, and other actions, notices, and filings that may be required in connection with the execution, delivery, and performance of this Agreement by such Party, have been obtained;

(e) The execution, delivery and performance of this Agreement by such Party complies with all Applicable Laws; and

(f) When executed and delivered, this Agreement constitutes a legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms, except: (1) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, receivership, conservatorship or other similar laws now or hereafter in effect, including the rights and obligations of receivers and conservators under 12 U.S.C. §§ 1821 (d) and (e), which may affect the enforcement of creditors' rights in general, and (2) as such enforceability may be limited by general principles of equity (whether considered in a suit at law or in equity).

(g) Except as otherwise disclosed to the other Party, neither Company nor Bank, to the actual knowledge of Company's or Bank's executive officers, any Principal of Company or Bank, has been subject to the following as of the date of this Agreement: (1) any criminal conviction (except minor traffic offenses and other petty offenses), (2) Federal or state tax lien, (3) administrative or enforcement proceedings commenced by the Securities and Exchange Commission, any state securities authority, Federal Trade Commission, or any Regulatory Authority, or (4) restraining order, decree, injunction, or judgment entered in any proceeding or lawsuit alleging fraud or deceptive practice on the part of Company, the Bank or any Principal thereof. Each Party further agrees to notify the other Party within two (2) Business Days upon the occurrence of any event contemplated by this paragraph.

4. **Grant of Right**. Subject to the terms and conditions of this Agreement, Bank hereby appoints Company as Bank's limited agent solely for purposes of marketing the Program, and performing such operational and customer support services hereunder to support the Program in accordance with the terms of this Agreement. Each Party shall execute and deliver or cause to be executed and delivered such further agreements and documents and take such other action as the other Party may reasonably require to carry out the matters contemplated by this Agreement.

5. **Marketing Materials**. Company may promote and market the Program using any form of Marketing Materials and Marketing Activities determined to be appropriate by Company, subject to Bank's prior approval as set forth herein. Bank agrees that

Company may refer to Bank and the Program in Marketing Materials upon the condition that the form of any references to Bank and/or the Program in any such Marketing Material is approved by Bank. All Marketing Materials must receive the prior written approval of Bank, in accordance with the procedures set forth in this Section 5.

(a) Prior to Company's use of any Marketing Materials or conducting any Marketing Activities, Bank shall have completed an initial review of the forms of Marketing Materials and Marketing Activities proposed by Company and approved or rejected any such forms of Marketing Materials and Marketing Activities that have been provided to Bank. Marketing Materials and Marketing Activities will be considered approved and authorized by Bank once such approval and authorization are clearly communicated by Bank in writing or as otherwise set forth in this Section 5(a), provided that Bank does not subsequently revoke its approval pursuant to the terms of Section 6. Bank shall conduct its initial review and shall accept or reject such forms of Marketing Materials and/or Marketing Activities provided by Company within five (5) business days of Company having submitted such Marketing Materials and Marketing Activities to Bank at [**] for review; any such forms of Marketing Materials and/or Marketing Activities not rejected, conditionally accepted with Bank's comments or accepted within five (5) business days shall be deemed approved ("Initial Review Process"). Should Bank conditionally accept with comments or otherwise request revisions to any forms of Marketing Materials and/or Marketing Activities during Bank's Initial Review Process and Company resubmits revised Marketing Materials and/or Marketing Activities to Bank at [**], Bank shall accept or reject with specific comments such revised Marketing Materials and/or Marketing Activities within five (5) business days of such resubmission; any such forms of Marketing Materials and/or Marketing Activities not specifically rejected or accepted within five (5) business days shall be deemed approved ("Resubmit Review Process"). Should Bank conditionally accept with comments or otherwise request further revisions after the Resubmit Review Process and Company resubmits revised Marketing Materials and/or Marketing Activities to Bank at [**], Bank shall accept or reject with specific comments such revised Marketing Materials and/or Marketing Activities within two (2) business days of such resubmission; any such forms of Marketing Materials and/or Marketing Activities not specifically rejected or accepted within two (2) business days shall be deemed approved ("Final Review Process").

(b) Thereafter, Company shall make available for Bank's prior review and approval all new forms of Marketing Materials and Marketing Activities proposed by Company. Bank shall review and approve or reject any such forms of Marketing Materials and Marketing Activities within: (i) for direct mail Marketing Materials, three (3) Business Days after Bank's receipt of such Marketing Materials; and (ii) for all other Marketing Materials or Marketing Activities, five (5) Business Days after Bank's receipt of such Marketing Materials or Marketing Activities. Notwithstanding any timeframes set forth in this Section 5(b), Bank may require additional time for review and approval if Bank determines, in its sole discretion, that additional regulatory review or approval is required. Bank shall notify Company of the need for such review or approval and shall periodically inform Company of the status of such review or approval. Marketing Materials and Marketing Activities will be approved and authorized by Bank once such approval and authorization are clearly communicated by Bank in writing to Company, provided that Bank does not subsequently revoke its approval pursuant to the terms of Section 6.

(c) After approval of the form of Marketing Materials or Marketing Activities pursuant to Section 5(a) or 5(b), and subject to Section 6, Company may use such forms of Marketing Materials and Marketing Activities, and need not seek further approval for use of such forms unless there is: (i) a Substantive Change in the Marketing Materials or Marketing Activities, or (ii) a new offering to be included in the Marketing Materials (each of the events in clauses (i) and (ii), a "Qualifying Change"). In the event of a Qualifying Change, Company shall submit such forms of Marketing Materials and Marketing Activities to Bank for review and approval in accordance with Section 5(b).

(d) Bank may request up to four (4) periodic reviews of the Marketing Materials and Marketing Activities then being used by Company in each calendar year, provided, however, that Bank may request additional reviews of the Marketing Materials and Marketing Activities if required by a Regulatory Authority or if Bank determines, in its sole discretion, that Company is in, or is likely in, breach of any provision of this Agreement or Applicable Law. Bank and Company shall cooperate to determine the form, format, frequency and timing of such reviews to minimize expense and disruption.

(e) Company shall be liable for all claims arising from the use by Company or Agents acting on Company's behalf of any Marketing Materials or Marketing Activities. Company shall ensure that all Marketing Materials and Marketing Activities shall comply with Applicable Law, shall be accurate in all respects and shall not be misleading; provided that Company may rely on the accuracy of information included in the Marketing Materials and/or Marketing Activities provided by Bank. Nothing herein shall serve to undermine Company's indemnification obligations under this Agreement.

6. Changes to Marketing Materials and Marketing Activities.

(a) Changes to Marketing Materials and Marketing Activities, including a determination that any Marketing Materials or Marketing Activities are no longer authorized, may be made upon the request of either Party subject to the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, however, that Bank may change Marketing Materials or Marketing Activities or determine that any Marketing Materials or Marketing Activities are no longer authorized upon written notice to Company to the extent that such change or determination is required by Applicable Law or Regulatory Authority or necessitated in Bank's reasonable determination by safety and soundness or reputational concerns. Unless such changes are required sooner by Applicable Law or a Regulatory Authority, upon Company's receipt of written notice from Bank of any changes to the Marketing Materials or Marketing Activities or a determination that any Marketing Materials or Marketing Activities are no longer authorized, Company shall implement such change or determination as soon as commercially practicable but in no event later than thirty (30) days (or earlier if required by Applicable Law or Regulatory Authority) from Company's receipt of notice of such change or determination.

(b) Bank may change the Marketing Materials or Marketing Activities previously approved by Bank or determine that any Marketing Materials or Marketing Activities previously approved by Bank are no longer authorized upon written notice provided to Company only to the extent that such change is required by Applicable Law or a Regulatory Authority or necessitated in Bank's reasonable determination by safety and soundness concerns. Unless such changes are required sooner by Applicable Law or a Regulatory Authority, upon Company's receipt of written notice from Bank of any changes to the Marketing Materials or Marketing Activities or a determination that any Marketing Materials or Marketing Activities are no longer authorized, Company shall implement such change or determination as soon as commercially practicable but in no event later than thirty (30) days (or earlier if required by Applicable Law or Regulatory Authority) from Company's receipt of notice of such change or determination.

7. Deposit Account Materials and Opening.

(a) Company shall be responsible for the development, production and distribution of all documents, terms and procedures necessary and proper to administer the Program (the "Program Materials"). Program Materials shall comply in all respects with Applicable Law. Prior to the formal launch of the Program, Bank shall provide Company with an Account Policy, which Company shall comply with in marketing, servicing, approving and managing Deposit Accounts. The Account Policy is considered Program Materials. For the avoidance of doubt, except as otherwise expressly set forth in this Agreement, Company shall be responsible for all liability associated with Deposit Accounts, including fraud and error resolution liability, even if such Deposit Account was approved in compliance with the Account Policy. Within ten (10) Business Days of the Effective Date, Company shall provide a form Deposit Account Agreement, form Application and its privacy policy, all of which are considered Program Materials to be used in connection with the Program, to Bank for its approval. The Parties acknowledge that each Deposit Account Agreement and all other documents referring to Deposit Account shall identify Bank as the depository institution. The Deposit Account Agreement shall further provide, as appropriate, that it is governed by Tennessee and federal law. Any changes to the Program Materials must be approved in advance by Bank.

(b) Company shall solicit Applications from Applicants and shall perform Application Processing on behalf of Bank to determine whether the Applicant meets the eligibility criteria set forth in the Account Policy. Company shall respond to all inquiries from Applicants and from Bank regarding the Application Processing. Company shall conduct Application Processing for each Applicant who requests a Deposit Account and shall approve on behalf of Bank only the requests of Applicants who meet the eligibility criteria set forth in the Account Policy. Without limiting any other provision of this Agreement, in performing its obligations under this Section 7 and its other obligations under this Agreement, Company shall comply with Applicable Law and Bank's policies and procedures, as provided to Company by Bank from time to time.

(c) Subject to the terms of this Agreement and Applicable Law, including those on bank branching, Bank may establish Deposit Accounts for Applicants who meet the eligibility criteria set forth in the Account Policy and who accept the Deposit Account offer. Company acknowledges that Bank is under no obligation to establish a Deposit Account for any Applicant. Notwithstanding anything to the contrary, Bank may, in its sole discretion, reject or decline to establish a Deposit Account if Bank determines to establish a Deposit Account would constitute an unsafe or unsound banking practice, pose undue reputational or financial risk to Bank or violate Applicable Law.

(d) Pursuant to procedures mutually agreed to by the Parties, Company shall deliver all notices required by Applicable Law to Applicants who do not meet the Account Policy criteria or are otherwise denied an Account under the Program. All notices shall be delivered in form, content and timing in accordance with Applicable Law.

(e) Company shall deliver to Applicants the Deposit Account Agreements, Bank's and Company's privacy notices and any other Program Materials required to be delivered to Applicants and shall obtain appropriate signatures or other authorization from Applicants and any third party required by Bank to open on a Deposit Account, and take all other actions necessary for Bank to open a Deposit Account, all in accordance with Applicable Law.

(f) Company shall be responsible for providing all Application Services and any other services contemplated herein in accordance with Applicable Law, and in a manner that is consistent with the data security standards set forth in Section 11 (Data Security) of this Agreement and shall maintain all Records related to Deposit Accounts in accordance with Applicable Law. Company will be responsible for costs, if any, associated with administering the Deposit Accounts in accordance with this Agreement as set forth on Schedule B hereto. Company shall be responsible for receiving, investigating and responding to any Customer dispute or error allegation concerning any Deposit Account; provided, Bank shall reasonably cooperate with Company in investigating and resolving any dispute. The Parties shall mutually agree upon procedures for resolving any errors alleged by a Customer in connection with a Deposit Account. Bank and Company will cooperate to develop procedures regarding the referral of a Customer claim, complaint, dispute or request for information. Bank will promptly, but in no event later than one (1) business day, refer to Company, or its Critical Service Provider designated by Company, any Customer or Applicant who contacts Bank concerning complaints, disputes or errors related to a Deposit Account.

(g) Company will administer the Deposit Accounts and will be responsible for supervising and managing all daily funds flow processes, including ensuring all balances in Deposit Accounts are accurate and fully funded by deposits placed with the Bank by Customers in connection with such Deposit Accounts. Company will be responsible for ensuring that the balance in each Deposit Account will be at all times appropriately funded by deposits placed at Bank by the Customer associated with such Deposit Account in an amount that is no less than 100% of the total amount of currency represented as active and available to Customers of the current day's Deposit Account balance. Company will be responsible for overseeing and managing such funding. Company shall be responsible and liable for any failure of the Deposit Account to be fully funded not caused by Bank's negligent actions or omissions, or its agents, assigns, or third party contractors (excluding Company or its agents, or third party contractors). In the event of any such failure, Bank may offset any deficient funds from the Program Manager Reserve Account or, upon Bank's request, Company shall, within one (1) Business Days after receiving notice of such request, fully fund any shortfall in the Deposit Account.

(h) Company shall perform its obligations described in this Agreement, and deliver any other customer communications to Applicants and Customers as necessary to carry on the Program, in accordance with Applicable Law, all at Company's own cost. Subject to Schedule B, Company shall pay all third-party costs associated with Deposit Account processing and establishment.

8. Company's Obligations. In addition to such other duties and obligations as are set forth in this Agreement, the Company shall:

(a) **BSA/AML**. Be responsible for developing, administering and maintaining an anti-money laundering and OFAC compliance program compliant with Applicable Law, including any anti-money laundering requirements applicable to Bank, and approved by Bank (the "BSA/AML/OFAC Program"), and shall be liable for any failure of its BSA/AML/OFAC Program in connection with the Program or Services. The BSA/AML/OFAC Program must, at a minimum, include a system of internal controls to ensure ongoing compliance and annual independent testing of the BSA/AML/OFAC Program, including testing for compliance with Applicable Law, designating an anti-money laundering compliance officer responsible for managing anti-money laundering compliance and the BSA/AML/OFAC Program, and providing appropriate and ongoing training for Company personnel. Company shall have an independent third party approved by Bank perform at least once per year an audit of the BSA/AML/OFAC Program and Company's compliance with its obligations hereunder. Company shall provide to Bank a copy of the audit report and Bank shall treat such audit report as Company's Confidential Information under this Agreement. Company shall promptly address any exceptions noted in such audit report with the development and implementation of a corrective action plan by Company's management, such corrective action plan to be approved by Bank.

(b) **OFAC**. Comply with all regulations of OFAC, including: (i) ensuring that all Customers are screened as required by Applicable Law and BSA/AML/OFAC Program, and (ii) complying with all OFAC and Bank directives regarding the prohibition or rejection of unlicensed trade and financial transactions with OFAC specified countries, entities and individuals in connection with the Program.

(c) **Software Services**. Maintain software services necessary to (i) maintain Records for transaction authorizations, including Origination Services as required by Applicable Law, any payment network rules, including NACHA Rules,

or Bank; and (ii) provide Bank access to the software services, including an administrative dashboard necessary to view, edit, and manage Customers (including Depositor Information), Deposit Account balances and transactions, reserves, including Company reserves with Bank, and compliance information related to anti-money laundering laws and requirements, and any other information in possession of or readily available to Company or its service providers required by Bank in order for Bank to provide Services under this Agreement. Company may provide the software services contemplated herein and any other data required to be provided to Bank in connection with a Deposit Account or Services using the application programming interface offered by Bank approved vendors and partners. A default of an agreement with such vendor or partner shall constitute a material breach of this Agreement.

(d) **Bank and Regulatory Audits**.

(i) Company agrees that Bank, its authorized representatives and agents, and any Regulatory Authority (collectively the "Auditing Party") shall have the right, at any time during normal business hours and upon reasonable prior written notice, or at any other time required by a Regulatory Authority, to inspect, audit and examine all of Company's facilities, Records, books, accounts, data, reports, papers and computer Records relating to the activities contemplated by this Agreement or to Deposit Accounts, including, but not limited to, financial Records and reports, any Security Program employed by Company to protect the Depositor Information to which Company may have access, associated audit reports, and test results or equivalent measures taken by Company to ensure that the security programs meet the requirements imposed with respect to third party vendors by the Regulatory Authorities or to otherwise ensure Company's compliance with Applicable Law pertaining to the Program and/or the terms of this Agreement. Company shall make all requested documentation and facilities available to the Auditing Party for the purpose of conducting such inspections and audits, and the Auditing Party shall have the right to make copies and abstracts of any Records and documentation pertaining to the subject matter of this Agreement.

(ii) Company agrees to cooperate with any examination, inquiry, audit, information request, document or record request, site visit or the like, which may be required by any Regulatory Authority with audit examination or supervisory authority over Bank, to the fullest extent requested by such Regulatory Authority or Bank. Company shall also provide such other information as Bank or a Regulatory Authority may request with respect to the financial condition of Company and such other commercially reasonable information as Bank may request from time to time with respect to any third party who has contracted with Company to perform Services in connect with this Agreement.

(iii) All information provided by Company or the resulting work product under this Section 8(d) to Bank shall be considered Confidential Information of Company.

(e) **Company Compliance With Law and Policies**. At all times, Company, in performing its duties and obligations under this Agreement, shall comply with all Applicable Law and Bank's written policies provided to Company.

(f) **Notice of Actions; Regulatory Communications**.

(i) (a) Each Party shall, to the extent not prohibited by Applicable Law, notify the other, promptly, but in no event later than five (5) Business Days after becoming aware, of any actual or threatened litigation, investigation, proceeding, or judicial, tax or administrative action by any Regulatory Authority, state attorney general or any other Person which, if resolved adversely to it, would reasonably be expected to materially adversely affect such Party's continuing operations, its indemnity obligations under this Agreement, or its ability to perform its obligations under this Agreement or the Program, and each Party shall provide the other Party with all related documentation thereof, unless such Party is prohibited from sharing any such notice or documentation. Each Party shall cooperate in good faith and provide such assistance, at the other Party's request, to permit the other Party to promptly resolve or address any such actions.

(ii) Each Party shall, to the extent not prohibited by Applicable Law and the actions or requirements of a Regulatory Authority, provide the other Party with notice and copies of any material communications from any Regulatory Authority regarding any matter which, if resolved adversely to it, would reasonably be expected to materially adversely affect the Program (each, a "Regulatory Communication") received by such Party within five (5) Business Days of receipt of such Regulatory Communication. For any Regulatory Communication to any Regulatory Authority with examination authority over Bank and for which a response from either Party is required or in either Party's reasonable judgment is prudent, the Parties shall

coordinate and cooperate on the response, provided, however, Bank shall have the final authority to approve the actual response to a Regulatory Authority with direct supervision over the Bank. Bank agrees to provide such actual response to Company promptly after providing such response to the applicable Regulatory Authority, if allowable under such Regulatory Authority or Applicable Law.

(g) **Fraud and Risk Management**. Company agrees that it is financially and operationally responsible for all compromised Deposit Accounts other than fraud losses due to Bank's gross negligence or willful misconduct hereunder; it being understood, however, Bank has no duty to monitor any Deposit Account activity, including monitoring for fraudulent transactions. Company shall adopt and implement a fraud monitoring practices and controls, and Company will bear the risk of and is responsible for all fraud losses, unauthorized transactions and errors (as defined by Regulation E) other than fraud losses due to Bank's gross negligence or willful misconduct hereunder. Company shall reimburse Bank for any losses it incurs in connection with a Deposit Account due to fraud, an unauthorized transaction or an error (as defined by Regulation E) or any other losses associated with the Deposit Account. Company shall promptly report to Bank any information necessary for Bank to investigate, make a determination and be able to file a suspicious activity report ("SAR") with the Financial Crimes Enforcement Network. The Parties acknowledge that the contents of a SAR and the fact that Bank has filed a SAR are strictly confidential under Applicable Law. Company further agrees to promptly provide to Bank any information it may deem necessary to resolve any complaints of fraudulent Deposit Account activity.

(h) **Program Manager Reserve Account** Company shall maintain a deposit account at Bank which holds the Reserve Amount deposited by Company ("Program Manager Reserve Account") in accordance with the terms set forth on the Cover Page of this Agreement. Company shall ensure the Program Manager Reserve Account shall at all times maintain a balance equal to the Reserve Amount.

(i) **Prohibited Changes and Notice of Change**. Company shall (a) not change in the name or form of business organization of Party without approval from Bank, such approval not to be unreasonably held; and (b) provide notice to Bank of any material adverse change in Company's financial condition or operations that might materially and adversely affect its ability to perform its obligations under this Agreement.

(j) Annual Statements and Audits.

(i) During the Term of this Agreement, Company will provide Bank with unaudited quarterly financial statements within forty-five (45) days following the end of each calendar quarter, which shall include, at a minimum, a balance sheet, income statement and cash flow statement, debt covenant calculations (if applicable), amount of any guaranteed loans and current loss rates on guaranteed loans (if applicable) in such detail reasonably acceptable to Bank and certified by Company's Treasurer or Chief Financial Officer, and audited annual financial statements within one hundred eighty (180) days after the end of Company's fiscal year, which shall include, at a minimum, a balance sheet, income statement, and cash flow statement, debt covenant calculations (if applicable), amount of any guaranteed loans and current loss rates on guaranteed loans (if applicable) and notes to financial statements in such detail customary for such financial statements and prepared by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied.

(ii) At least annually, Company will have a certified independent public accounting firm or another independent third party reasonably acceptable to Bank: (i)(a) conduct a review or assessment and provide a full attestation, review or report under SSAE 16 (Statement on Standards for Attestation Engagements No. 16) SOC (Service Organization Control) 1 Type II or SOC 2 Type II; (b) a replacement for one of the foregoing approved by Bank; or (c) other third party reviews and reports reasonably acceptable to Bank, in each case, of all key systems and operational controls used in connection with any Confidential Information or Depositor Information; and (ii) conduct and provide a full report of an independent network and application penetration test. Each of these attestations, reviews, reports and tests will be for a scope approved by Bank in its reasonable discretion. Company will provide all findings from these attestations, reviews and tests to Bank upon receipt from the third party. Company will (x) implement all material recommendations set forth in such attestations, reviews, reports and any other reasonable recommendations made by Bank arising out of Bank's analysis of such reviews and (y) upon Bank's request, provide Bank with the status of the implementation. If Company fails to conduct the required reviews and assessments and provide the required reports set forth in clauses (i) and (ii) above, as determined by Bank, Bank may perform its own reviews and assessments, and Company will promptly reimburse Company for all reasonable costs associated with its efforts.

(k) **True and Correct Information**. Company covenants that all information furnished by it to Bank for purposes of or in connection with this Agreement shall be, to the best of Company's knowledge, as of the date provided, true, correct and complete in all material respects and does not omit any material fact necessary to make the information so furnished not misleading. Except as disclosed to Bank, there is no fact known to Company (including threatened or pending litigation) that is reasonably likely to materially and adversely affect the financial condition, business, property, or prospects of Company.

9. **Bank's Obligations**. In addition to such other duties and obligations as are set forth in this Agreement, the Bank shall:

(a) **Membership**. At its sole expense, maintain its Membership in good standing and shall timely pay all fees, dues and assessments associated with such Membership.

(b) **Escheatment**. Bank shall be responsible for the handling of any Deposits that constitute unclaimed, abandoned or similar property under Applicable based upon the records maintained by Company. Company shall provide such reports and notices that may be reasonably requested by Bank from time to time.

(c) **FBO Account**. (i) Establish and maintain the FBO Account in compliance with Applicable Law and in accordance with this Agreement, including Schedule A; and (ii) Bank shall provide Company view-only access to the FBO Account to enable Company to provide the Services to Customers under this Agreement.

(d) **Deposit Account Issuance**. Issue and maintain a Deposit Account to each Customer in compliance with Applicable Law and in accordance with the Deposit Account Agreement and this Agreement, including Schedule A.

(e) **FDIC Insurance**. Issue and maintain the Deposits in Deposit Accounts in order to ensure the Deposits are insured by the FDIC up to the standard maximum deposit insurance amount per Customer, per FDIC-insured bank and per ownership category.

(f) **Origination Services, Generally**. Provide Company with Origination Services for Customer transaction services as more fully described in Section 10 (Origination Services);

(g) **Reserved**.

(h) **Bank Oversight**. Have, at all times, the right to control, oversee and audit (as set forth in this Agreement) Company's use of the Services to ensure that Company's performance of the Services complies with Applicable Law and Bank's policies.

(i) **Bank Compliance With Law and Policies**. Comply, at all times, in performing its duties and obligations under this Agreement, with all Applicable Law and Bank's policies.

(j) **Notices of Changes**. Unless such notice is prohibited by Applicable Law or the actions or requirements of a Regulatory Authority, Bank shall notify Company as far as reasonably possible in advance of: (a) any change in the name or form of business organization of Bank or change in the location of its chief executive office; or (b) any material adverse change in Bank's financial condition or operations that might materially and adversely affect Bank's ability to perform its obligations under this Agreement.

(k) **Notice of Proceedings**. Unless such notice is prohibited by Applicable Law or the actions or requirements of a Regulatory Authority, Bank shall promptly notify Company of any action, suit, litigation, proceeding, facts and circumstances, and of all tax deficiencies and other proceedings before governmental bodies or officials (i) affecting the Program or this Agreement, (ii) that might give rise to any indemnification obligation pursuant to this Agreement or (iii) that might materially and adversely affect Bank's ability to perform its obligations under this Agreement.

(l) **Bank's Business**. Bank shall do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence and to comply with all requirements of this Agreement. Bank shall use reasonable efforts to remain a well-capitalized institution, as defined under the prompt corrective actions provisions of the Federal Deposit Insurance Act, 12 U.S.C. § 1831o and 12 C.F.R. Part 6.

(m) **True and Correct Information.** Bank covenants that all information furnished by Bank to Company for purposes of or in connection with this Agreement shall be, to the best of Bank's knowledge, as of the date provided, true and correct in all material respects and does not omit any material fact necessary to make the information so furnished not misleading. Except as disclosed to Company, there is no fact known to Bank (including threatened or pending

litigation) that is reasonably likely to materially and adversely affect the financial condition, business, property, or prospects of Bank.

10. Origination Services.

(a) **Transmittal of Entries by Company**. Company shall (i) submit Entries to Bank in compliance with the NACHA Rules; (ii) not submit to Bank on any day Entries in a total dollar amount that exceeds the Exposure Settlement Limits (if any); and (iii) prior to such Entry submission, ensure all debit or credit authorizations have been provided as required by the NACHA Rules and Applicable Laws and are otherwise formatted and comply with any other requirements set out in the NACHA Rules. Subject to Bank's prior approval, Company may contract with third parties for services, but shall nevertheless retain all liabilities of an Originator or Receiver as set forth in the NACHA Rules.

(b) **Processing, Transmittal and Settlement by Bank**. Except as provided in Section 10(c) (On-Us Entries) and Section 10(d) (Rejection of Entries), Bank shall (i) process Entries received from Company to conform with the file specifications set forth in the NACHA Rules, (ii) transmit such Entries as an ODFI to the ACH Operator, and (iii) settle for such Entries as provided in the NACHA Rules. For purposes of this Agreement, Entries shall be deemed received by Bank, in the case of transmittal by tape, when received by Bank, and in the case of electronic transmission, when the transmission (and compliance with any related security procedures provided for herein) is completed. If such requirements are not met, Bank shall use reasonable efforts to transmit such Entries to the ACH Operator by the next deadline of the ACH Operator.

(c) **On-Us Entries**. Except as provided in Section 10(d) (Rejection of Entries), in the case of an Entry received for credit to an account maintained with Bank ("On-Us Entry"), Bank shall credit the Receiver's account in the amount of such Entry on the Effective Entry Date contained in such Entry, provided the requirements set forth in clauses (i) and (ii) of Section 10(a) are met. If either of those requirements is not met, Bank shall use reasonable efforts to credit the Receiver's account in the amount of such Entry no later than the next Business Day following such Effective Entry Date.

(d) **Rejection of Entries**. Bank may reject any Entry that does not comply with the requirements of Section 10(a) (Transmittal of Entries by Company) or Section 11(a) (Company Data Security Obligations) or that contains an Effective Entry Date more than two (2) Business Days after the Business Day such Entry is received by Bank. Bank may reject an On-Us Entry for any reason for which an Entry may be returned under the NACHA Rules. Bank may reject any Entry if Company does not adhere to its Security Program. Bank shall notify Company by email or electronic transmission of such rejection no later than the Business Day such Entry would otherwise have been transmitted by Bank to the ACH Operator or, in the case of an On-Us Entry, its Effective Entry Date. Notices of rejection shall be effective when given. Bank shall have no liability to Company by reason of the rejection of any such Entry or the fact that such notices are not given at an earlier time than that provided for herein. In the event that any Entries are rejected by the ACH Operator for any reason, it shall be the responsibility of Company to remake such Entries. Should the File be rejected due to an error caused by Bank, Bank shall be responsible for remaking the File. In such a case, Company will supply sufficient information to allow Bank to recreate the Entries for up to five (5) Business Days after midnight of the Settlement Date.

(e) **Cancellation or Amendment by Company**. Company shall have no right to cancel or amend any Entry after its receipt by Bank. However, Company can make amendments or cancel an ACH batch Entry if the Entry is still "pending" in Bank's internet banking service. If a Company request for cancellation or amendment complies with the procedures for canceling or amending Entry Data, Bank shall use reasonable efforts to act upon such a request by Company prior to transmitting the Entry to the ACH Operator or, in the case of an On-Us Entry, prior to crediting or debiting a Receiver's account, but shall have no liability if such cancellation or amendment is not affected. Company shall reimburse Bank for any expenses, losses or damages Bank may incur in effecting or attempting to affect Company's request for the cancellation or amendment of an Entry.

(f) **Error Detection**. Bank has no obligation to discover and shall not be liable to Company for errors made by Company, including errors made by Company in identifying the Receiver, or an Intermediary or RDFI, or for errors made by Company in the amount of an Entry or for errors in Settlement Dates. Bank shall likewise have no duty to discover and shall not be liable for duplicate Entries issued by Company. Notwithstanding the foregoing, if Company discovers that any Entry it has initiated was in error, it shall notify Bank of such error. In the event that Company makes an error or issues a duplicate Entry, Company shall reimburse Bank for any loss, damages or expenses, incurred by Bank as result of the error or issuance of duplicate Entries. Bank and Company shall cooperate to resolve, using commercially reasonable efforts, any errors or issues related to Entries within one (1) business day or as soon as reasonably practicable.

(g) **Prohibited Transactions**. Company shall not use or attempt to use the Services (i) to engage in any illegal purpose or activity or to violate any Applicable Law, rule or regulation; (ii) to breach any contract or agreement by which Company is bound; (iii) to engage in any internet or online gambling transaction, whether or not gambling is legal in any applicable jurisdiction; or (iv) to engage in any transaction or activity that is not specifically authorized and permitted by this Agreement. Bank may decline to execute any transaction or activity that Bank believes violates the terms of this Agreement.

(h) **Notice of Returned Entries**. Bank shall notify Company by email or online notification of the receipt of a returned or changed Entry from the ACH Operator no later than one (1) Business Day after the Business Day of such receipt. Except for an Entry retransmitted by Company in accordance with the requirements of Section 10(a) (Transmittal of Entries by Company), Bank shall have no obligation to retransmit a returned Entry to the ACH Operator if Bank complied with the terms of this Agreement with respect to the original Entry. Upon receipt of a return of Debit Entry with a return reason code of RO7 (authorization revoked) or R10 (customer advises unauthorized), Company will cease transmission of said transactions until a new authorization has been signed by the consumer (RO7-authorization revoked) or until corrections have been made or an authorization has been obtained (R10-customer advises unauthorized).

(i) **Inconsistency of Name and Account Number**. The Company acknowledges and agrees that, if an Entry describes the Receiver inconsistently by name and account number, payment of the Entry transmitted by Bank to the RDFI may be made by the RDFI (or by Bank in the case of an On-Us Entry) on the basis of the account number supplied by the Company, even if it identifies a person different from the named Receiver, and that the Company's obligation to pay the amount of the Entry to Bank is not excused in such circumstances. Company is liable for and must settle with Bank for any Entry initiated by Company that identifies the Receiver by account or identifying number or by name and account or identifying number.

(j) **Payment for Credit Entries and Returned Debit Entries**. Notwithstanding anything to the contrary, Company agrees to pay Bank for all credit Entries issued by Company, Customer(s), or credit Entries otherwise made effective against Company. Company shall make payment at such time on the date of transmittal by Bank of such credit Entries as Bank, in its discretion, may determine ("Payment Date"), and the amount of each On-Us Entry at such time on the Effective Entry Date of such credit Entry as Bank, in its discretion, may determine. Company shall pay Bank for the amount of each debit Entry returned by an RDFI or debit Entry dishonored by Bank. Payment shall be made by Company to Bank in any manner specified by Bank. Notwithstanding the foregoing, Bank is hereby authorized to charge the account(s) held by Bank for Company or any other Company designated account as payment for credit Entries issued by Company or returned or dishonored debit Entries. In the event that the such accounts does not have sufficient available funds on the Payment Date, Bank is hereby authorized to charge any account maintained by Company with Bank as payment for credit Entries issued by Company or returned or dishonored debit Entries. Company shall maintain sufficient collected funds in Company's account(s) to settle for the credit Entries on the Payment Date. In the event that no Company account has collected funds sufficient on the Payment Date to cover the total amount of all Entries to be paid on such Payment Date, Bank may take any of the following actions: (i) refuse to process all Entries, in which event Bank shall inform Company that Bank suspended processing of the Entries, whereupon Bank shall have no liability to Company or any third-party as a result thereof, or (ii) process all credit Entries. In the event Bank elects to process credit Entries initiated by Company, the total amount of the insufficiency advanced by Bank on behalf of Company shall be immediately due and payable by Company to Bank without any further demand from Bank. If Bank elects to pay Company's account in the overdraft on any one or more occasions, it shall not be considered a waiver of Bank's rights to refuse to do so at any other time nor shall it be an agreement by Bank to pay other items in the overdraft.

(k) **Notifications of Change**. Bank shall notify Company of all Notification of Change ("NOC") Entries received by Bank relating to Entries transmitted by Company by electronic transmission no later than one (1) Business Day after receipt thereof. It is the responsibility of Company to make the requested changes within six (6) Business Days or prior to the initiation of the next live Entry, whichever is later with the following exceptions: (a) the Originator may choose, at its discretion, to make the changes specified in any NOC or corrected NOC relating to ARC, BOC, POP, RCK, XCK and single Entry TEL or WEB, (b) in the case of CIE and credit WEB Entries, the ODFI or Third-Party Service Provider is responsible for making the changes and (c) for an NOC in response to a Prenotification Entry, the Originator must make the changes prior to originating a subsequent Entry if the ODFI receives the NOC by opening of business on the second Business Day following the settlement date of the Prenotification Entry.

(l) **Electronic Debit Entries**. Provisions may be made for holding accounts to be maintained for posting of any return Debit Items received, as stated elsewhere within this Agreement and the NACHA Rules. Company will promptly provide immediately available funds to indemnify Bank if any Debit Items are rejected after Bank has permitted

Company to withdraw immediately available funds, should funds not be available in the Program Manager Reserve Account to cover the amount of the rejected or returned Entries.

(m) **ACH Audits**. At least once per year, Company shall provide Bank with an ACH audit performed by a qualified third party in accordance with NACHA Rules. Bank shall treat such audit reports as Company's Confidential Information under this Agreement. Any exceptions noted on the ACH audit reports will be promptly addressed with the development and implementation of a corrective action plan by Company's management. The Company shall retain data on file adequate to permit remaking of Entries for 365 days following the date of their transmittal by Bank as provided here and shall provide such data to Bank upon its request.

(n) **Reserves and Exposure Settlement Limits**. In the event Exposure Settlement Limit may be exceeded on a Business Day, Company and Bank will work diligently to resolve such deficiency and update the Exposure Settlement Limit and/or Reserve Amount prior to the batch time of the Business Day that the Exposure Settlement Limit otherwise would have been met or exceeded.

(o) **NACHA Rules** Company acknowledges receipt of a copy or has access to a copy of the NACHA Rules. A copy of the NACHA Rules is available at www.achrulesonline.org. Company agrees to comply with and be bound by the NACHA Rules. In the event Company violates any of the applicable NACHA Rules and/or NACHA imposes a fine on Bank because of Company's actions, Bank shall pass on the fine and any associated penalties to Company. The Bank reserves the right to suspend Company, Originators and Third Party Senders for breach of the NACHA Rules or to terminate this Agreement pursuant to Section 16 (Term and Termination) of this Agreement. The Bank reserves the right to audit the Originator and/or Third Party Senders compliance with this Agreement and with the NACHA Rules. Bank will provide reporting information to NACHA regarding Company if Company's return rate for unauthorized Entries exceeds the Unauthorized Entry Return Rate Threshold, the Administrative Return Rate Level or Overall Return Rate Level as required by the NACHA Rules. NACHA, in its role of ensuring the safety, security, and viability of the ACH network has determined that certain single-use or limited-use consumer authorizations have the potential to increase risk in the ACH system and compromise system effectiveness by increasing the incidence of returned Entries. Therefore, Company hereby warrant to Bank that for each such ACH Entry submitted for processing, Company have obtained all authorizations from the Receiver as required by the Rules, by Regulation E or other Applicable Law, and this Agreement. Company also makes the additional warranties to Bank that Bank makes to each RDFI and ACH Operator under the Rules for the respective SEC codes for Entries originated by Company. In addition to any other duties, responsibilities, warranties, representations and liabilities under this Agreement, for each and every Entry transmitted by Company as a Third Party Sender (as defined by the NACHA Rules) to Bank, Company represents and warrants to Bank and agrees that Company shall: (i) perform all of the duties, including, but not limited to, the duty to identify Originators and, upon request of Bank, provide the identity of the Originators to Bank; (ii) assume all of the responsibilities, including, but not limited to, the responsibilities of ODFIs and Originators; (iii) make all of the warranties, including, but not limited to, the warranties of ODFIs and the warranty that Originators have agreed to assume the responsibilities of Originators under the NACHA Rules; (iv) make all of the representations required under NACHA Rules; (v) use a unique company identifier in the ACH transaction for each Originator; (vi) not transact in a business prohibited by Bank; and (vii) assume all of the liabilities, including, but not limited to, liability for indemnification for failure of an Originator to perform its obligations as an Originator or a Third-Party Sender in accordance with the NACHA Rules.

(p) **Security Procedures**.

1) The Company and Bank shall comply with the Security Procedures with respect to Entries transmitted by the Company to Bank and payment orders submitted to Bank. The Company acknowledges that the purpose of such Security Procedures is to verify authenticity and not to detect an error in the transmission or content of an Entry or payment order. No Security Procedures have been agreed upon between Bank and the Company for the detection of any such error and Company shall be solely responsible for any transmission errors. If Company believes or suspects that any such information or instructions have been known or accessed by unauthorized persons, Company agrees to notify Bank within one (1) Business Days, followed by written confirmation. The occurrence of unauthorized access will not affect any transfers made in compliance with the Security Procedures prior to receipt of such notification and within a reasonable time period to prevent unauthorized transfers.

2) Additionally, Company warrants that no individual will be allowed to initiate transfers in the absence of proper supervision and safeguards, and agrees to take reasonable steps to maintain the confidentiality of Security Procedures and any passwords, codes, security devices and related instructions provided by Bank in connection with the Security Procedures. If Company believes or suspects that any such

information or instructions are accessed by unauthorized persons, Company will notify Bank immediately followed by written confirmation. The occurrence of unauthorized access will not affect any transfers made in good faith by Bank prior to receipt of notification and within a reasonable time period to prevent unauthorized transfers.

3) If an Entry (or a request for cancellation or amendment of an Entry) or payment order (or a request for cancellation or amendment of a payment order) received by Bank purports to have been transmitted or authorized by the Company, it will be deemed effective as the Company's Entry (or request) or payment order and the Company shall be obligated to pay Bank the amount of such Entry (or request) or payment order or request) even though the Entry (or request) or payment order (or request) was not authorized by the Company, provided Bank acted in compliance with the Security Procedures. If signature comparison is to be used as a part of the Security Procedure, Bank shall be deemed to have complied with that part of such procedure if it compares the signature accompanying a file of Entries (or request) or payment order (or request) with the signature of an authorized representative of the Company and, on the basis of such comparison, reasonably believes the signature to be that of such authorized representative.

4) If an Entry (or request for cancellation or amendment of an Entry) or payment order (or request for cancellation or amendment of a payment order) received by Bank was transmitted or authorized by the Company, the Company shall be obligated to pay the amount of the Entry or payment order as provided herein, whether or not Bank complied with the Security Procedures and whether or not that Entry or payment order was erroneous in any respect or that error would have been detected if Bank had complied with such Security Procedures.

5) In the event of a breach of the Security Procedure, Company agrees to provide reasonable assistance to Bank in determining the manner and source of the breach. Such assistance shall include, but shall not be limited to, providing Bank or Bank's agent access to Company's hard drive, storage media and devices, systems and any other equipment or device that was used in breach of the Security Procedure. Company further agrees to provide to Bank any analysis of such equipment, device, or software or any report of such analysis performed by Company, Company's Agents, law enforcement agencies, or any other third party. Failure of Company to provide assistance to Bank within fifteen (15) business days after receipt by Company from Bank of a reasonable request for assistance specifying in detail the nature of the assistance required shall be an admission by Company that the breach of the Security Procedure was caused by a person who obtained access to transmitting facilities of Company or who obtained information facilitating the breach of the Security Procedure from Company and not from a source controlled by Bank.

11. Data Security.

(a) **Company Data Security Obligations**.

(i) Company represents and warrants that its creation, collection, receipt, access, use, storage, disposal and disclosure of Depositor Information does and will comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations and directives. At a minimum, pursuant to NACHA Rules, Company must use 128 bit RC4 encryption technology for the entry and transmission of Entries.

(ii) Without limiting Company's obligations under Section 11(a)(i), Company shall implement administrative, physical and technical safeguards to ensure Depositor Information is protected from unauthorized access, acquisition, or disclosure, destruction, alteration, accidental loss, misuse, or damage that are no less rigorous than accepted industry practices, and shall ensure that all such safeguards, including the manner in which Depositor Information is created, collected, accessed, received, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Agreement.

(iii) At least once per year, Company shall conduct a site audit of the information technology and information security controls for all facilities used in complying with its obligations under this Agreement, including obtaining a network-level vulnerability assessment performed by a recognized third-party audit firm based on recognized industry best practices.

(b) **Security Program**. Each Party shall, and shall require its third-party service providers that receive Depositor Information, "Nonpublic Personal Information" or "Personally Identifiable Financial Information" (as defined in Sections 1016.3(p) and (q) respectively of the Consumer Financial Protection Bureau rules on Privacy of Consumer Information published at 12 CFR Chapter X) to establish and maintain a Security Program as long as it stores Depositor Information, Nonpublic Personal Information or Personally Identifiable Financial Information. At all times during and after the Term and any Transition Period, (i) each Party shall use at least the same degree of care in protecting such information against unauthorized disclosure as it accords to its other confidential Customer information, but in no event less than the industry standard of care for financial institutions and (ii) the Security Program shall comply with all information and data security requirements of each Network and Applicable Law. Within 30 days of Bank's written request, Company shall provide to Bank a summary of Company's written Security Program, and thereafter upon Bank's request will provide updates on the status of such Security Program. Each Party's Security Program shall be Confidential Information of such Party.

(c) **Security Breach Procedures**.

(i) Each Party shall notify the other Party of a Security Breach as soon as practicable, but no later than forty eight (48) hours after the Breached Party becomes aware of any Security Breach. The Party with a Security Breach shall be referred herein as the "Breached Party."

(ii) Immediately following notification under Section 11(c)(i) above of a Security Breach, the Parties shall coordinate with each other to investigate the Security Breach. The Breached Party agrees to fully cooperate with the other Party in handling the matter, including: (i) assisting with any investigation; (ii) providing the other Party with physical access to the facilities and operations affected; (iii) facilitating interviews with the Breached Party's employees and others involved in the matter; and (iv) making available all relevant Records, logs, files, data reporting and other materials required to comply with Applicable Law, regulation, industry standards or as otherwise reasonably required by the other Party.

(iii) The Breached Party shall at its own expense use best efforts to immediately contain and remedy any Security Breach and prevent any further Security Breach, including taking any and all action necessary to comply with applicable privacy rights, laws, regulations and standards. The Breached Party shall reimburse the other Party for all actual reasonable costs incurred by the other Party in responding to, and mitigating damages caused by, any Security Breach, including all costs of notice and/or remediation pursuant to Section 11(c)(iv).

(iv) Except as otherwise required by Applicable Law, contract, or at the request of any Regulatory Authority, the Breached Party agrees that it shall not inform any third party of any Security Breach without first obtaining the other Party's prior consent, other than to inform a complainant that the matter has been forwarded to the other Party's legal counsel or as may be required by Applicable Law. The Parties will work together promptly and in good faith to determine (i) whether notice of the Security Breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies or others as required by law or regulation, or otherwise in other Party's discretion; (ii) the contents of such notice, and (iii) whether any type of remediation may be offered to affected persons, and the nature and extent of any such remediation.

(v) The Breached Party agrees to maintain and preserve all documents, records and other data related to any Security Breach for the term of this Agreement and two years thereafter or as otherwise required by Applicable Law.

(vi) In the event of any Security Breach, Breached Party shall promptly use its best efforts to prevent a recurrence of any such Security Breach.

(d) **Equitable Relief**. Breached Party acknowledges that any breach of its covenants or obligations set forth in this Section 11 may cause the other Party irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the other Party is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance, and any other relief that may be available from any court, in addition to any other remedy to which the other Party may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

(e) **Material Breach**. The Breached Party's failure to comply with any of the provisions of this Section 11 is a material breach of this Agreement.

12. **Disaster Recovery, Business Resumption and Contingency Plans**. At all times during the Term and any wind-down or transition period, each Party shall prepare and maintain disaster recovery, business resumption and contingency plans appropriate for the nature and scope of the activities of, and the obligations to be performed by, such Party. Each Party shall ensure that its plans are sufficient to enable such Party to promptly resume, without giving effect to the force majeure provisions of Section 17 of this Agreement, the performance of its obligations hereunder in the event of a natural disaster, destruction of facilities or operations, utility or communication failures or similar interruption in operations and shall ensure that all material records, including any personal or business data, are backed up in a manner sufficient to survive any disaster or business interruption. Each Party shall periodically, and no less than annually, test its respective disaster recovery, business resumption and contingency plans as may be appropriate and prudent in light of the nature and scope of its obligations hereunder.

13. **Compensation**. In consideration of performing their respective obligations in connection with the Program, the Parties will receive the amounts provided in Schedule B.

14. **Confidentiality**.

(a) **Obligations of Nondisclosure and Nonuse**. Unless otherwise agreed to in advance, in writing, by the disclosing Party or except as expressly permitted by this Agreement, the receiving Party will not, except as required by law or court order, use Confidential Information of the disclosing Party or disclose it to any third party.

The receiving Party may disclose Confidential Information of the disclosing Party only to those of its employees or contractors who need to know such information. In addition, prior to any disclosure of such Confidential Information to any such employee or contractor, such employee or contractor shall be made aware of the confidential nature of the Confidential Information and shall execute, or shall already be bound by, a nondisclosure agreement containing terms and conditions consistent with the terms and conditions of this Agreement.

In any event, the receiving Party shall be responsible for any breach of the terms and conditions of this Agreement by any of its employees or contractors.

The receiving Party shall use the same degree of care to avoid disclosure of the disclosing Party's Confidential Information as the receiving Party employs with respect to its own Confidential Information of like importance, but not less than a reasonable degree of care.

(b) **Return of Confidential Information**. Upon the termination or expiration of this Agreement for any reason, or upon the disclosing Party's earlier request, the receiving Party will deliver to the disclosing Party all of the disclosing Party's property or Confidential Information in tangible form that the receiving Party may have in its possession or control. The receiving Party may retain one copy of the Confidential Information in its legal files.

(c) **Depositor Information**. Company acknowledges and agrees that "Non Public Personal Information" and "Personally Identifiable Financial Information" (as each term defined in Sections 1016.3(p) and (q) respectively of the Consumer Financial Protection Bureau rules on Privacy of Consumer Information published at 12 CFR Chapter X) and Depositor Information about Bank's customers and Customers (but excluding transaction data to the extent such information is not Non Public Personal Information and Personally Identifiable Financial Information) shall be considered as confidential and proprietary information of Bank, and shall not be disclosed to or shared with any third party without prior written consent of Bank or the Customer, except as necessary or useful for Company to exercise its rights or perform its obligations hereunder and in compliance with the terms of this Agreement and Bank's privacy policy. Bank hereby grants Company a nonexclusive, transferrable, worldwide right and license to use Depositor Information to exercise its rights and perform its obligations under this Agreement. Except as provided in, and subject to the limitations stated herein, Company will not compile, use, sell or otherwise distribute any lists of Bank's customers/Customers nor use the names, account numbers or any other Nonpublic Personal Information and Personally Identifiable Financial Information about customers, Applicants or Customers to compile, use, sell or distribute lists or data for use by Company, subsidiaries or affiliates, or by any third parties without the prior written consent of Bank, which may not unreasonably withheld or delayed. Each Party will instruct its relevant employees, agents and contractors as to the confidentiality of the Nonpublic Personal Information and Personally Identifiable Financial Information and will not disclose any such Nonpublic Personal Information or Personally Identifiable Financial Information to any third party or entity, except as necessary or useful to exercise its rights or perform its obligations hereunder and in compliance with this Agreement. Each Party also agrees that any dissemination of the

aforementioned confidential Nonpublic Information or Personally Identifiable Financial Information within its own business entity and to agents and contractors shall be restricted to "a need to know basis" for the purpose of performance hereunder. Subject to Section 16(h)(ii), all obligations under this Section 14 and undertakings relating to Nonpublic Personal Information and Personally Identifiable Financial Information shall survive the expiration or termination of this Agreement for whatever reason.

All Aggregated De-Identified Data will be owned by Company, and Bank acknowledges that Company may use, store, analyze and disclose the Aggregated De-Identified Data (i) for its own internal, statistical and trend analysis, (ii) to develop and improve its products and Services, and (iii) to create and distribute data, reports and other materials regarding access and use of the Program. For clarity, nothing in this Section 14 gives Company the right to publicly identify Bank as the source of any Aggregated De-Identified Data without Bank's prior written approval. "Aggregated De-Identified Data" means Depositor Information and Customer information aggregated by Company with other data such that the resulting data does not contain any information, Non Public Personal Information and Personally Identifiable Financial Information, identifiable or attributable to Bank or any natural Person.

Bank acknowledges that Company owns all Deposit Account-related transaction data that does not constitute Nonpublic Personal Information and Personally Identifiable Financial Information, including both information that is: (i) provided or made available by Company under this Agreement, or (ii) generated through the Program which is derived from such data. For clarity, nothing in this Agreement will affect either Party's rights with respect to information or data already in such Party's possession or control or developed or collected by such Party outside the scope of this Agreement.

(d) **Disclosures in Securities Filings**. Company shall not file the Agreement (including any addendum, schedule, supplement or attachment), or any future amendment or supplement hereto, with the U.S. Securities and Exchange Commission (the "SEC") unless such filing is required under Item 601 of Regulation S-K. In the event that Company determines that the Agreement (or amendment or supplement) must be filed with the SEC under Regulation S-K, Company shall take all actions necessary to obtain confidential treatment of all exhibits, addenda, schedules, supplements and attachments (including all pricing attachments) and to the extent possible, the Agreement, in accordance with Rule 406 under the Securities Act of 1933. Specifically, and without limitation, Company shall omit all exhibits, addenda, schedules, supplements and attachments (including all pricing attachments) from the material filed with the SEC and, in lieu thereof, shall indicate in the material filed that the Confidential Information has been so omitted and filed separately with the SEC. Company shall file all exhibits, addenda, schedules, supplements and attachments (including all pricing attachments) so as to maintain the confidentiality of the documents, and shall file an application making an objection to the disclosure of these materials. If the SEC denies the application, Company will seek review of the decision under Rule 431.

(e) **Other Relationships with Depositors**. Subject to Applicable Law, Bank's privacy policy and consistent with the Deposit Account Agreement, Company, at its own expense, shall have the right to solicit Applicants and/or Customers with optional offerings of general merchandise and services from Company and others, including Bank-approved ancillary products and services, and to use Applicant and/or Depositor Information for purposes permitted by Applicable Law, Bank's privacy policy and the Deposit Account Agreement. Company shall notify Bank of its intent to make any such offers and shall obtain the prior written approval of Bank, which may be withheld for any reason and may be conditioned on the Parties entering into a mutually agreeable revenue sharing program regarding the offers.

Subject to the rights and restrictions in the California Consumer Privacy Act of 2018 (CCPA), Bank may at all times make solicitations for goods and services to the general public, which may include one or more Applicants or Customers; provided that Bank does not (i) target such solicitations to specific Applicants and/or Customers, or (ii) use or permit a third party to use any list of Applicants and/or Customers in connection with such solicitations; and Bank shall not be obligated to redact the names of Applicants and/or Customers from marketing lists acquired from third parties (e.g., magazine subscription lists) that Bank uses for solicitations. Bank may at all times and without restriction: offer credit, debit, prepaid and other electronic payment services or sponsor other program managers or companies who are offering credit, debit, prepaid or other electronic payment services.

15. Proprietary Materials.

(a) **Bank Marks**. Bank hereby grants to Company a nonexclusive, nontransferable, revocable limited license to use and reproduce the name, logo and specified trademarks of Bank ("Bank Marks"), which Bank has made available to Company, solely in connection with the Program or as required under the Rules, provided that any such use shall require the prior written approval of Bank, such approval not to be unreasonably withheld or delayed and consistent

with any Bank usage guidelines. If such approval is granted, Company may utilize such Bank Marks subject to Bank's prior approval of such materials. This use terminates upon termination of this Agreement and the Transition Period.

(b) **Company Marks**. Company grants to Bank a nonexclusive, nontransferable, revocable limited license to use and reproduce the name, logo and specified trademarks of Company ("Company Marks"), which Company has made available to Bank, solely in connection with the Program or as required under the Rules, provided that any such use shall require the prior written approval of Company, such approval not to be unreasonably withheld or delayed and consistent with any Company usage guidelines. If such approval is granted, Bank may utilize such Company Marks subject to Company's prior approval of such materials. This use terminates upon termination of this Agreement and the Transition Period.

(c) **Reservation of Intellectual Property Rights**. Each Party acknowledges and agrees that the other Party shall retain all right, title and interest in and to all Intellectual Property that is developed, established, used or otherwise created by the other Part related to the Program, including mobile applications, underwriting algorithms, form of applications and Deposit Account Agreements. Program materials, marketing materials and the Party's Confidential Information. Nothing in this Agreement shall be construed as granting either Party a license to use in any way the Intellectual Property of the other Party, except as provided in Section 15(a) and 15(b). Neither Party shall take any action that interferes with the Intellectual Property of the other Party or attempt to copyright or patent any part of the Intellectual Property of the other Party or attempt to register any trademark, service mark, trade name, or company name which is identical or confusingly similar to other Company Marks or Bank Marks respectively.

16. Term and Termination.

(a) **General**. This Agreement will take effect on the Effective Date and continue until the second anniversary of the Effective Date (the "Initial Term") and will renew automatically for successive additional terms of one (1) year each (each a "Renewal Term"), unless Company notifies Bank of nonrenewal at least one hundred eighty (180) days prior to the end of the Initial Term or any Renewal Term or Bank notifies Company of nonrenewal at least one-hundred-eighty (180) days prior to the end of the Initial Term or any Renewal Term (together, the "Term").

(b) **Material Breach**. Except as otherwise provided in this Agreement, if either Party materially breaches a material term of this Agreement, the nonbreaching Party may terminate this Agreement by giving written notice to the breaching Party. This notice will: (1) describe the material breach; and (2) state the Party's intention to terminate this Agreement. If the breaching Party does not cure or substantially cure its material breach within fifteen (15) Business Days (or a shorter period if required by Applicable Law) after receipt of notice as described in this Section 16(b) (the "Cure Period"), then the nonbreaching Party may immediately terminate this Agreement by giving notice at any time following the end of such Cure Period; provided, however, that if such breach by Company is not capable of being cured or substantially cured within such fifteen (15) Business Day period, then the time period for curing or substantially curing such breach may be extended by Bank in its sole discretion so long as Company continues to diligently pursue such cure using commercially reasonable efforts. Neither Party will be held in breach for failure to perform under this Agreement if such failure is due to compliance with Applicable Law. In addition to the termination rights set forth herein, Bank may terminate this Agreement without liability if Company materially breaches this Agreement on three (3) or more separate occasions within twelve (12) consecutive months.

(c) **Cross Default**. This Agreement will terminate upon the termination of the Debit Card Issuing Agreement.

(d) **Force Majeure; Change in Applicable Law**. Either Party may terminate this Agreement as permitted by Sections 17 or 28, or upon written notice to the other Party if the other Party becomes Insolvent or bankrupt or becomes subject to a receivership proceeding.

(e) Either Party may terminate this Agreement upon fifteen (15) Business Days' advance written notice to the other Party of such intent to terminate if, at any time during the Term of this Agreement, the other Party is conducting activities that the terminating Party reasonably determines are materially harmful to relationships with its federal or state supervisory or law enforcement agencies; provided that the terminating Party promptly notifies the other Party of such activity, provides evidence of such activity, and the other Party does not cure such activity to the terminating Party's sole and reasonable satisfaction within fifteen (15) Business Days of notification to the terminating Party.

(f) Either Party may immediately terminate this Agreement in the event of an act of fraud or willful misconduct of the other Party, and Bank may suspend services under this Agreement if Company fails to maintain Program Manager

Reserve Account balances in accordance with Section 8(h) and the terms set forth on page one of this Agreement, including any applicable cure period.

(g) **Regulatory Requirement**. Either Party may terminate at any time if required to do so by any authority with regulatory supervision over the Party or any Program.

(h) **Effect of Termination and Transition**.

(i) The termination of this Agreement shall not terminate, affect or impair any rights, obligations or liabilities of any Party that accrue prior to termination or with respect to the services occurring or arising prior to termination, or which, under this Agreement, continue after termination.

(ii) Prior to termination or expiration of this Agreement, Company may elect to transfer the Program and the Deposit Accounts and Deposits therein to an alternative depository institution designated by Company ("Successor Bank") in accordance with Applicable Law (each, a "Transfer") or wind down the Program ("Wind Down") by providing written notice of such election. Each Party acknowledges that the main goals of a Transfer or Wind Down are, in order or priority, to: (A) benefit Customers by minimizing any possible burdens or confusion and (B) protect and enhance the names and reputations of the Parties, both of whom have invested their names and reputations in the Program. The Parties agree to cooperate in good faith to effectuate any Transfer or Wind Down in a commercially reasonable way as soon as reasonably possible to provide for a smooth and orderly transition or Wind Down. Such cooperation will include continuing to provide the Services, Deposit Accounts and Customer service until the Transfer or Wind Down is completed. Notwithstanding anything to the contrary, Bank is under no obligation to Transfer Deposit Accounts or Deposits under this Section during the continuance of any event or circumstances that would give rise to Bank's right to terminate this Agreement or if such assistance would violate any Applicable Law or any order or instruction of a Regulatory authority.

(iii) In the event that Company elects a Transfer to a Successor Bank, Bank's obligations will include: (A) executing and delivering a mutually agreed upon transfer agreement; and (B) taking all other reasonable actions necessary to effectuate the Transfer to the Successor Bank, including the transfer of all Depositor Information described in Section 14(c) . Company will ensure that all aspects of the Transfer in its control are accomplished in compliance with Applicable Law, including any required regulatory approvals. The Successor Bank may be required to file a Bank Merger Act application or other applications with respect to any Deposits related to the Deposit Accounts to the applicable regulatory authorities. Bank will reasonably cooperate in any such filings and related approval processes.

(iv) As soon as reasonably practicable after providing notice of a Transfer or Wind Down as provided in Section 16(h)(ii), Company will provide to Bank in writing a proposed Transition Plan detailing (A) whether the Program or certain Deposit Accounts will be transferred to a Successor Bank or wound down; (B) a proposed work plan; and (C) a proposed time line, which will designate the date of the Transfer or completion of the Wind Down. The Parties will meet promptly thereafter to review such proposed plan and diligently work in good faith to promptly determine a mutually acceptable plan ("Transition Plan"). The Parties will use their best efforts to complete a Transition or Wind Down within one-hundred-eighty (180) days after Bank's receipt of Company's election as provided in Section 16(h)(ii); provided, however, that such time period may be extended by mutual written agreement of the Parties. The period of time between such election and completion of a Transfer or Wind Down is referred to in this Section 16(g) as the "Transition Period."

(v) Unless the Transition Plan provides otherwise, during the Transition Period, the Parties will continue to be bound by and comply with the terms of this Agreement and perform all of their obligations hereunder and will remain liable for their respective representations and warranties, covenants, agreements and indemnification obligations under this Agreement.

(vi) In no event will either Party make any public statement or Customer communication regarding any Transfer or Wind Down without the express prior written approval of the other Party, which approval will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, each Party may communicate confidentially any Transfer or Wind Down to any subcontractor or other third party providing services related to the Program.

(vii) Subject to Section 14(b), following termination or expiration of this Agreement and expiration of the Transition Period, each Party will (A) return all property belonging to the other Party which is in its possession or control at the time of expiration of the Transition Period and (B) discontinue using the other Party's trademarks.

(viii) Company shall be responsible for all costs, including reasonable attorneys' fees, associated with any transition contemplated herein, unless the Agreement is terminated by Company for cause pursuant to Section 16(b) or (f).

(ix) Company shall maintain funds in the Program Manager Reserve Account equal to the Reserve Amount for a period of at least one-hundred-eighty (180) days after the Transition Period, and Bank will transfer to Company any amounts remaining in the Program Manager Reserve Account net of all payments due to Bank under this Agreement, including losses associated with Deposit Account fraud, no later than five (5) Business Days after the end of such period.

17. **Force Majeure**. If any Party will be unable to carry out the whole or any part of its obligations under this Agreement by reason of a Force Majeure Event, then the performance of the obligations under this Agreement of such Party as they are affected by such cause will be excused during the continuance of the inability so caused, except that should such inability not be remedied within thirty (30) days after the date of such cause, the Party not so affected may at any time after the expiration of such thirty (30) day period, during the continuance of such inability, terminate this Agreement on giving written notice to the other Party. A "Force Majeure Event" as used in this Agreement will mean an unanticipated event that is not reasonably within the control of the affected Party or its subcontractors (including acts of God, acts of governmental authorities, strikes, war, terrorist attacks, riot and any other causes of such nature), and which by exercise of reasonable due diligence, such affected Party or its subcontractors could not reasonably have been expected to avoid, overcome or obtain, or cause to be obtained, a commercially reasonable substitute therefore. No Party will be relieved of its obligations hereunder if its failure of performance is due to removable or remediable causes which such Party fails to remove or remedy using commercially reasonable efforts within a reasonable time period. Either Party rendered unable to fulfill any of its obligations under this Agreement by reason of a Force Majeure Event will give prompt notice of such fact to the other Party, followed by written confirmation of notice, and will exercise due diligence to remove such inability with all reasonable dispatch.

18. **Disclaimers of Warranties**.

(a) EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, EACH PARTY SPECIFICALLY DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, EACH OF WHICH IS HEREBY EXCLUDED BY BOTH PARTIES UNDER THIS AGREEMENT.

(b) EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, BANK'S SERVICES AND BANK SYSTEMS ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITHOUT ANY REPRESENTATION OF WARRANTY, WHETHER EXPRESSED, IMPLIED OR STATUTORY. USE OF BANK SOFTWARE SERVICES OR BANK SYSTEMS IS AT COMPANY'S OWN RISK. BANK DOES NOT WARRANT THE SERVICES OR BANK SYSTEMS WILL MEET COMPANY'S REQUIREMENTS, BE CONTINUOUS, UNINTERRUPTED, SECURE, TIMELY, OR ERROR-FREE, OR THAT DEFECTS WILL BE CORRECTED. BANK SHALL NOT BE RESPONSIBLE FOR ANY SOFTWARE SERVICE OR BANK SYSTEM INTERRUPTIONS OR SERVICE FAILURES THAT MAY AFFECT THE SERVICES OR COMPANY.

(c) THIS DISCLAIMER OF WARRANTY, SECTION 18 (DISCLAIMER OF WARRANTIES), SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

19. **Limitation of Liability**.

(a) No Special Damages. No Party shall be liable to any other Party for any special, indirect, incidental, consequential, punitive or exemplary damages, including, but not limited to, lost profits, even if such Party has knowledge of the possibility of such damages; provided, however, that the limitations set forth in this Section 19 shall not apply to or in any way limit a claim that arises out of a Party's gross negligence, willful misconduct or fraud and shall not apply to or in any way limit the obligations of a Party to indemnify another Party for third party claims which are otherwise covered by the indemnity obligations under this Agreement.

(b) Subject to Section 19(a), the maximum aggregate liability of Bank to Company for all claims arising out of or relating to this Agreement, regardless of the form of any such claim, shall not exceed [**].

20. Indemnification.

(a) Bank agrees to indemnify and hold harmless Company and its affiliates, and the officers, directors, members, employees, representatives, shareholders, Agents and attorneys of such entities (the "Company Indemnified Parties") from and against any and all third party claims, actions, liability, judgments, damages, costs and expenses, including reasonable attorneys' fees ("Losses"), that may arise from: (i) the gross negligence or willful misconduct of Bank or its agents or representatives (other than Company or its Agents or assigns) in connection with Bank's performance of its obligations under this Agreement, (ii) material breaches of any of Bank's obligations or undertakings or representations or warranties under this Agreement (other than any breach resulting from Company's performance of Company's obligations under this Agreement or the Debit Card Issuing Agreement) by Bank or its agents or representatives (other than Company or its Agents or assigns), or (iii) violation by Bank or its agents or representatives (other than Company or its Agents or assigns) of any Applicable Law.

(b) Company agrees to indemnify, defend and hold harmless Bank and its affiliates, and the officers, directors, members, employees, representatives, shareholders, agents and attorneys of such entities (the "Bank Indemnified Parties") from and against any and all Losses that may arise from: (i) the negligence or willful misconduct of Company, or its affiliates, Agents or representatives (other than Bank or its agents or assigns (excluding Company)), in connection with Company's performance of its obligations under this Agreement, (ii) breach of any of Company's obligations or undertakings or representations or warranties under this Agreement by Company or its affiliates, Agents or representatives (other than Bank or its agents or assigns (excluding Company)), including any failure to perform any obligations of Bank which Company has undertaken on behalf of Bank pursuant to this Agreement, (iii) violation by Company, its affiliates or its Agents or representatives (other than Bank or its agents or assigns (excluding Company)) of any Applicable Law; (iv) any fraudulent activity related to an Deposit Account, including unauthorized use of the Deposit Account or FBO Account; (iv) any inquiry specifically relating to Company or its Agents or the Program by any law enforcement, regulatory, or administrative agency, whether local, state, or federal, or self-regulatory, including but not limited to a civil investigative demand, subpoena, or any other formal or informal request for information or documents; (v) any fines or assessments by a Regulatory Authority or NACHA based on the actions or omissions of Company; (vi) any Security Breach suffered by Company; or (vii) allegation that Bank's use of Company software or service(s) as contemplated hereunder infringes the Intellectual Property of a third party.

(c) Company Indemnified Parties and Bank Indemnified Parties are sometimes referred to herein as the "Indemnified Parties", and Company or Bank, as indemnitor hereunder, is sometimes referred to herein as the "Indemnifying Party". Any Indemnified Party seeking indemnification hereunder shall promptly notify the Indemnifying Party, in writing, of any notice of the assertion by any third party of any claim or of the commencement by any third party of any legal or regulatory proceeding, arbitration or action, or if the Indemnified Party determines the existence of any such claim or the commencement by any third party of any such legal or regulatory proceeding, arbitration or action, whether or not the same shall have been asserted or initiated, in any case with respect to which the Indemnifying Party is or may be obligated to provide indemnification (an "Indemnifiable Claim"), specifying in reasonable detail the nature of the Loss, and, if known, the amount, or an estimate of the amount, of the Loss, provided that failure to promptly give such notice shall only limit the liability of the Indemnifying Party to the extent of the actual prejudice, if any, suffered by such Indemnifying Party as a result of such failure. The Indemnified Party shall provide to the Indemnifying Party as promptly as practicable thereafter information and documentation reasonably requested by such Indemnifying Party to defend against the claim asserted.

(d) The Indemnifying Party shall have thirty (30) days after receipt of any notification of an Indemnifiable Claim (a "Claim Notice") to undertake, conduct and control, through counsel of its own choosing, and at its own expense, the settlement or defense thereof and the Indemnified Party shall cooperate with the Indemnifying Party in connection therewith if such cooperation is so requested and the request is reasonable; provided that the Indemnifying Party shall hold the Indemnified Party harmless from all its out-of-pocket expenses, including reasonable attorneys' fees incurred in connection with the Indemnified Party's cooperation. If the Indemnifying Party assumes responsibility for the settlement or defense of any such claim, (i) the Indemnifying Party shall permit the Indemnified Party to participate in such settlement or defense through counsel chosen by the Indemnified Party (subject to the consent of the Indemnifying Party, which consent shall not be unreasonably withheld); provided that, other than in the event of a conflict of interest requiring the retention of separate counsel, the fees and expenses of such counsel shall not be borne by the Indemnifying Party; and (ii) the Indemnifying Party shall not settle any Indemnifiable Claim without the Indemnified Party's consent, which involves anything other than the payment of money, including any admission by the Indemnified Party. So long as the Indemnifying Party is vigorously contesting any such Indemnifiable Claim in good faith, the Indemnified Party shall not pay or settle such claim without the Indemnifying Party's consent.

(e) If the Indemnifying Party does not notify the Indemnified Party within thirty (30) days after receipt of the Claim Notice that it elects to undertake the defense of the Indemnifiable Claim described therein, or if the Indemnifying Party fails to contest vigorously any such Indemnifiable Claim, the Indemnified Party shall have the right, upon notice to the Indemnifying Party, to contest, settle or compromise the Indemnifiable Claim in the exercise of its reasonable discretion; provided that the Indemnified Party shall notify the Indemnifying Party of any compromise or settlement of any such Indemnifiable Claim. No action taken by the Indemnified Party pursuant to this Section 20(e) shall deprive the Indemnified Party of its rights to indemnification pursuant to this Section 20 (Indemnification).

21. **Independent Contractors**. It is understood that both Parties hereto are independent contractors and engage in the operation of their own respective businesses. Each Party shall be fully responsible for its own employees, servants and agents, and the employees, servants and agents of one Party shall not be deemed to be employees, servants and agents of the other Party for any purpose whatsoever.

22. **Insurance**. Company shall procure, pay for and maintain the minimum insurance coverage set forth below for the entire term of the Agreement. All insurance coverage is subject to the approval of Bank and shall be issued by a fiscally sound insurance carrier which maintains an A.M. Best Rating of A- VII or better. The General Liability policy shall name Bank as additional insured on the General Liability policy:

(a) Workers' Compensation insurance providing coverage pursuant to statutory requirements.

(b) Commercial General Liability insurance with Completed Product and Operations covering bodily injury, property damage, and including contractual liability coverage with a combined limit of [**] per occurrence and [**] general aggregate. The Commercial General Liability insurance policy shall name Bank as additional insured but solely as it relates to insurable losses and expenses that result from Company's activities in the servicing of the Program. Such policy shall contain a waiver of subrogation in favor of Bank.

(c) Commercial Umbrella Liability insurance with per occurrence and aggregate limits of [**] with the liability insurance required under clauses (a) and (b) above scheduled as underlying.

(d) Commercial Crime insurance covering Employee Theft and Computer Fraud with limits of [**] per loss for loss or damage arising out of fraudulent or dishonest acts committed by the employees of Company, acting alone or in collusion with others, including the property and funds of others in their possession, care, custody or control.

(e) Technology Errors and Omissions Liability insurance in the amount of [**] per claim and aggregate.

Company must furnish Bank with certificates of insurance as evidence of the above insurance requirements prior to commencement of operations under the Agreement. Such certificates shall verify that Bank is named as additional insured and the waiver of subrogation in favor of Bank under the Commercial General Liability policy as required herein, and that in the event of a cancellation or material change in coverage, Bank would be given thirty (30) days prior written notice. In the event Company receives notice of cancellation for any of the required policies, Company shall use commercially reasonable efforts to provide at least thirty (30) days prior notice of such event to Bank, unless the required coverage is immediately replaced by similar coverage in scope and limits. Failure of Company to provide or of Bank to request a certificate of insurance shall not waive Company's obligation under this Agreement to maintain the insurance required herein. In the event Company fails to maintain the insurance set forth herein Bank shall have the right to terminate this Agreement immediately upon written notice.

23. **Subcontractors**.

(a) Company may from time to time retain the services of one or more Agents to perform some of the services and obligations Company has agreed to perform pursuant to this Agreement; provided, however, it must first obtain Bank's written approval in the event such subcontractor is performing a Critical Service ("Critical Service Provider"). "Critical Services" shall mean services that (i) grants, permits or require a third party to access, store, transmit or process Depositor Information or Bank's Confidential Information in connection with a Program, (ii) involve significant bank functions or other activities that could cause Bank to face significant risk if the third party fails to meet expectations, (iii) could have significant Applicant, consumer or Customer impacts, (iv) require significant Bank investment in resources to implement the third-party relationship and manage the risk, (v) could have a material impact on Bank operations if the Bank has to find an alternate third party or if the outsourced activity has to be brought in-house; or (vi) any other service determined by Bank to be critical in its reasonable discretion.

(b) Company shall be responsible for obtaining a written agreement with all Agents for the rendering of such services and shall be responsible for all obligations with each Agent. Such written agreements shall be available to Bank for review upon its request. Bank may, in its sole discretion, require any written agreement with a Critical Service Provider to be amended or modified to comply with Bank's policies and procedures, Applicable Law, NACHA Rules, payment network rules or any instruction of Regulatory Authority. Bank may require Company to terminate or replace any Agent in the event Bank or a Regulatory Authority determines that such Agent's performance violates Applicable Law or the terms of this Agreement. Company understands that it must inform Bank in writing regarding the use of any Critical Service Provider so that Bank may complete a due diligence review of such Critical Service Provider in compliance with Bank's policies and procedures and Applicable Law, including, but not limited to, compliance with FFIEC guidance on Vendor and Third Party Management. Company shall be responsible for all costs and expenses, including reasonable attorneys' fees, incurred by Bank in connection with diligence of and approval of any Critical Service Provider.

(c) Company shall remain liable for any services performed by any and all Agents. Company shall include provisions in any agreement with a Critical Service Provider requiring the Critical Service Provider to allow Bank and any Regulatory Authority having jurisdiction over Bank to audit, inspect and review their facilities, personnel, files and records insofar as they relate to Deposit Accounts or the Program. Any audit, inspection or review as provided hereunder shall be on terms reasonably similar to the audit terms set forth in Section 8. Company shall also use commercially reasonable efforts to include provisions in any new or existing agreement with any other Critical Service Provider requiring the Critical Service Provider to allow Bank and any Regulatory Authority having jurisdiction over Bank to audit, inspect and review their facilities, personnel, files and records insofar as they relate to the Deposit Accounts or the Program.

24. **Nonexclusivity**. Bank and Company agree that this Agreement is not intended to create an exclusive relationship of any type between Bank and Company. Bank and Company may each enter into similar arrangements with one or more third parties.

25. **Assignment**. Except with respect to a Transition Plan, no Party may, without written approval of the other Party assign this Agreement or transfer its interest or any part thereof under this Agreement to any third party.

26. **Injunctive Relief**. Each Party acknowledges that a violation of Section 14 (Confidentiality) would cause immediate and irreparable harm for which money damages would be inadequate. Therefore, the harmed Party will be entitled to injunctive relief for the other Party's breach of any of its obligations under the said Articles without proof of actual damages and without the posting of bond or other security. Such remedy shall not be deemed to be the exclusive remedy for such violation but shall be in addition to all other remedies available at law or in equity.

27. **Governing Law and Dispute Resolution**.

(a) This Agreement shall be interpreted and construed in accordance with the laws of the State of Tennessee, without giving effect to the rules, policies, or principles thereof with respect to conflicts of laws. Each Party hereby submits to the jurisdiction of the courts of Tennessee, and (subject to Bank's reservation of preemption rights herein).

(b) TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING HEREUNDER.

(c) Dispute Resolution and Arbitration.

(i) Cooperation to Resolve Disputes. The Parties shall cooperate and attempt in good faith to resolve any dispute, controversy, or claim arising out of or relating to this Agreement or the construction, interpretation, performance, breach, termination, enforceability or validity thereof (a "Dispute") promptly by negotiating between persons who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for administration and performance of the provisions or obligations of this Agreement that are the subject of the Dispute.

(ii) Arbitration. Any Dispute which cannot otherwise be resolved as provided in subsection (i) above shall be resolved by arbitration conducted in accordance with the commercial arbitration rules of the American Arbitration Association, and judgment upon the award rendered by the arbitral tribunal may be entered in any court having jurisdiction thereof. The arbitration tribunal shall consist of a single arbitrator mutually agreed upon by the Parties, or in the absence of such agreement within 30 days from the first referral of the Dispute to the American Arbitration Association, designated by the American Arbitration Association. The place of arbitration shall be Memphis, Tennessee, unless the Parties shall have agreed to another

location within 15 days from the first referral of the Dispute to the American Arbitration Association. The arbitral award shall be final and binding. The Parties waive any right to appeal the arbitral award, to the extent a right to appeal may be lawfully waived. Each Party retains the right to seek judicial assistance: (1) to compel arbitration, (2) to obtain interim measures of protection prior to or pending arbitration, (3) to seek injunctive relief in the courts of any jurisdiction as may be necessary and appropriate to protect the unauthorized disclosure of its proprietary or confidential information, and (4) to enforce any decision of the arbitrator, including the final award. In no event shall either Party be entitled to punitive, exemplary or similar damages.

(iii) Confidentiality of Proceedings. The arbitration proceedings contemplated by this subsection shall be as confidential and private as permitted by Applicable Law. To that end, the Parties shall not disclose the existence, content or results of any proceedings conducted in accordance with this subsection, and materials submitted in connection with such proceedings shall not be admissible in any other proceeding, provided, however, that this confidentiality provision shall not prevent a petition to vacate or enforce an arbitral award, and shall not bar disclosures required by any laws or regulations.

28. **Agreement Subject to Applicable Law**. Subject to Section 16 (Term and Termination), if (a) either Party has been advised by legal counsel of a change in Applicable Laws or any judicial decision of a court having jurisdiction over such Party or any interpretation of a Regulatory Authority that, in the view of such legal counsel, would have a materially adverse effect on the Program, the rights or obligations of such Party under this Agreement or the financial condition of such Party; (b) either Party shall receive a lawful written request of any Regulatory Authority having jurisdiction over such Party, including any letter or directive of any kind from any such Regulatory Authority, that prohibits or restricts such Party from carrying out its obligations under this Agreement; (c) either Party has been advised by legal counsel that there is a material risk that such Party's or the other Party's continued performance under this Agreement would violate Applicable Laws; (d) any Regulatory Authority shall have determined and notified either Party that the arrangement between the Parties contemplated by this Agreement constitutes an unsafe or unsound banking practice or is in violation of Applicable Law; or (e) a Regulatory Authority has commenced an investigation or action against a Party which the other Party, in its reasonable judgment, determines that it threatens such Party's ability to perform its obligations under this Agreement, then, in each case, the Parties shall meet and consider in good faith any modifications, changes or additions to the Program or this Agreement that may be necessary to eliminate such result. Notwithstanding any other provision of this Agreement, if the Parties are unable to reach agreement regarding modifications, changes or additions to the Program or this Program Agreement within fifteen (15) Business Days after the Parties initially meet, either Party may terminate this Agreement upon thirty (30) days prior written notice to the other Party and without payment of a termination fee or other penalty. A Party shall be able to suspend performance of its obligations under this Agreement, or require the other Party to suspend its performance of its obligations under this Agreement, if (i) any event described in clause (b) above occurs and (ii) such Party reasonably determines that continued performance hereunder may result in a fine, penalty or other sanction being imposed by the applicable Regulatory Authority, or in material civil liability, unless with regards to civil liability, the other Party agrees to indemnify the Party. For the avoidance of doubt, nothing in this Section 28 shall obligate a Party to disclose, share, or discuss any information to the extent prohibited by Applicable Law or a Regulatory Authority.

29. **Bank Systems**. Bank may, in its sole discretion, provide Company access to certain Bank application program interfaces ("Bank Systems") in order to support Company's obligations under this Agreement. In such an event, Bank grants Company limited access, that may be terminated at any time by Bank, to Bank Systems to perform activities permitted in writing by Bank or otherwise set forth in written specifications provided by Bank ("Specifications"). Company shall comply with Specifications and shall be responsible for the administration and use of Bank Systems and any access to systems in accordance with Specifications or other written instructions delivered by Bank. Notwithstanding anything to the contrary, Company shall remain liable for performance of its obligations under this Agreement, regardless of its use of Bank Systems, and Bank shall not be liable for any access to Bank Systems Bank may provide to Company. Nothing herein grants Company an ownership interest in Bank Systems, and Bank reserves all intellectual property rights not expressly granted in this Section 29.

30. **General**. This Agreement constitutes the entire agreement of the Parties on the subject hereof and supersedes all prior understandings and instruments on such subject. All notices under this Agreement shall be emailed to Bank and Company as indicated on Page 1 of this Agreement unless notified otherwise by either Party. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. All waivers and modifications must be in a writing signed by both Parties and failure to enforce a provision shall not constitute a waiver. The Agreement may be executed in one or more counterparts. The Parties acknowledge that each Party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any amendments thereto, and the same shall

be construed neither for nor against either Party, but shall be given a reasonable interpretation in accordance with the plain meaning of its terms and the intent of the Parties. The words "include," "includes" or "including" mean without limitation by reason of enumeration. Words in singular number include the plural, and in the plural include the singular, unless the context otherwise requires.

31. **Conflicts.** Reference is made to that certain Debit Card Issuing Agreement. In the event of conflict between the Debit Issuing Agreement and this Agreement, the terms of this Agreement will prevail with respect to the Program, Deposit Account, Services, Origination Services or any other Deposit Account services provided by Bank or Company under this Agreement.

32. **Survival**. Provisions of this Agreement that, by their nature, should survive termination of this Agreement shall survive termination (including, but not limited to, Sections 1, 3, 11, 14, 15(c), 16, 18, 19, 20, 26, 27, 30, 31 and 32).

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SCHEDULE A
PROGRAM DESCRIPTION

[**]

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SCHEDULE B
SCHEDULE OF FEES AND CHARGES

[**]
31

Exhibit 10.2

CERTAIN INFORMATION IN THIS DOCUMENT, MARKED BY [**], HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10)(iv). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

First Amendment to Bank Services Agreement

This First Amendment to the Bank Services Agreement (this "Amendment"), dated as of August 8, 2024 (the "Effective Date"), is made by and between Evolve Bank & Trust, an Arkansas state bank ("Bank"), and Dave Operating LLC, a Delaware limited liability company and successor in interest by merger to the entity formerly known as Dave Inc. ("Company" or "Program Manager"). Bank and Company each will be referred to individually as a "Party" and together as the "Parties."

Recitals

WHEREAS, Bank and Company are parties to that certain Bank Services Agreement, dated as of July 13, 2020, as may be amended, modified or supplemented from time to time (the "Agreement"); and

WHEREAS, Bank and Company desire to amend the Agreement in accordance with the terms set forth herein and have therefore mutually agreed to enter into this Amendment.

NOW THEREFORE, in consideration of the foregoing recitals and the terms, conditions, covenants, and agreements contained herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties mutually agree as follows:

1. **Capitalized Terms**. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Agreement, unless the context shall otherwise require.

2. **Amendment to Preamble**. The preamble of the Agreement is hereby deleted in its entirety and restated to read as follows:

   This Bank Services Agreement is entered into as of the 13th day of July, 2020 ("Effective Date") by and between Evolve Bank & Trust, an Arkansas state bank ("Bank") and Dave Operating LLC, a Delaware limited liability company and successor in interest by merger to the entity formerly known as Dave Inc. ("Company" or "Program Manager"). For purposes of this Agreement, Bank and Company each will be referred to individually as a "Party" and together as the "Parties."

3. **Amendment to the Recitals**. The fourth recital of the Agreement is hereby deleted in its entirety and replaced with the following:

   "WHEREAS, the Parties desire to establish one or more programs under which the Bank will offer Bank Services to Customers and Program Manager will support such offering, as more fully described in this Agreement and Schedule A (and in case of multiple programs, in sequential form (A-1, A-2)) to this Agreement."

4. **Amendment to References to Program and Schedule A.** All references to "the Program" throughout the Agreement are hereby deleted and replaced with "each Program," and based on context or where more than one Program is referenced, replaced with the "Programs".

5. **Amendment to Section 1 (Definitions).** Section 1 (Definitions) is hereby amended by adding the following definitions:

   "Agreement" means the Bank Services Agreement with applicable schedules, amendments, addendums and documents, policies and procedures referenced herein and therein.

   "Bank Policies" means the Bank's policies and procedures, guidelines, user guides, prohibited and restricted customer lists and any other writing or documents governing Bank Services or the Program(s), including the minimum requirements necessary to provide and service a Bank Service, as provided to Program Manager by Bank from time to time.

   "Bank Service" or "Bank Services" means all financial products and services required to be maintained under the terms of this Agreement and offered by Bank in connection with a Program pursuant to this Agreement, including banking and money transmission services (including such requiring licensure under applicable banking or money transmission laws) and any other services Bank affirmatively undertakes to perform under the terms of the Agreement, and excluding any Program Manager Service(s). Bank Services may include, if approved by Bank in connection with a Program, establishing, offering and maintaining Deposit Accounts, Check Services, Origination Services, Wire Services, and certain bill pay services. Notwithstanding anything to the contrary, Company shall ensure no Bank Services include any extension of credit of any kind or in any amount by Bank unless otherwise expressly approved by the Parties in writing regarding any Program under this Agreement.

   "Deposit Ledger" means the ledger record of all Deposit Accounts, as applicable, and transactions related to Bank Services in accordance with the terms herein and Bank's instructions. Deposit Ledger shall include all Deposit information, including amounts deposited and any withdrawals, and the owner(s) of the Deposits, including all identifying information required by Bank, including, but not limited to name and tax identification number.

"ExtraCash Account(s)" has the meaning ascribed to such term in Schedule A-2 (ExtraCash).

"ExtraCash Program" has the meaning ascribed to such term in Schedule A-2 (ExtraCash).

"First Amendment Effective Date" has the meaning set forth in the preamble of that certain First Amendment to Bank Services Agreement.

"Program" means a system of services approved by Bank, including Bank Services, to be offered by Bank to Customers pursuant to the terms of this Agreement and supported by Program Manager pursuant to the terms of this Agreement. Each Program is further described in Schedule A (Program Schedules) of this Agreement, which is incorporated herein by reference and may be amended from time to time by written agreement. This Agreement contemplates that Program Manager may be permitted by Bank to offer multiple Programs (each relating to a specific Bank Service) hereunder, each subject to the terms hereof and the prior written approval of Bank. Each Bank approved Program will be incorporated into Schedule A in sequential form (e.g., Schedule A-1, Schedule A-2, etc.).

"Program Manager Service" or "Program Manager Services" or "Services" means the mobile application, Deposit Ledger, Application Processing, any services of the Company set forth in this Agreement or in any schedules or exhibits attached to this Agreement, and any applicable amendments thereto, and all services not required to be provided by Bank (excluding Bank Services) pursuant to the terms of this Agreement that are otherwise required to maintain and offer the Program(s) in compliance with Applicable Law, Deposit Account Agreement, and the agreement(s) between Company and Customers. For the avoidance of doubt, the definition of Program Manager Service(s) includes such services offered by Company or through a third party partner of Company, including Agents, and servicing of Receivables as defined in and in accordance with that certain agreement relating thereto between the Parties, and customer service, and maintaining the necessary technology for the foregoing.

"Program Schedule" means the terms agreed upon by the Parties in writing describing a Program, as set forth in Schedule A (Program Schedules) and this Agreement.

6. **Amendment to Section 1 (Definitions)**. Each of the following definitions under Section 1 of the Agreement is hereby deleted in its entirety and restated to read as follows:

(f) "Applicable Law" means any federal, state and local statutes, rules, regulations, regulatory guidelines and judicial or administrative interpretations related to this Agreement, the Services, Bank Services, Program and/or the Program services, as well as any rules or requirements established by the FDIC, Federal Reserve Board, Arkansas State Bank Department, Tennessee Department of Financial Institutions, the Equal Credit Opportunity Act and Regulation B, FACT Act, any laws and regulations regulating unfair, deceptive and abusive acts or practices, all anti-money laundering laws and regulations, including the Bank Secrecy Act as amended by the USA PATRIOT ACT of 2001 and regulations administered by the U.S. Department of Treasury's OFAC, the Gramm-Leach-Bliley Act, Uniform Commercial Code as in effect in the State of New York and laws on bank branching.

(w) "Customer" means (i) a Person to whom Bank issues or provides Bank Services in connection with the Program; (ii) any Person who possesses or otherwise uses a Bank Service through the services of Program Manager; (iii) any Person who meets the standards set forth in the Account Policy and otherwise successfully completes Program Manager's KYC process (as established pursuant to the BSA/AML/OFAC Program) and enters into a Deposit Account Agreement with Bank in each case for a Program Manager Service; or (iv) any Person who purports to be the Person identified in (i), (ii) or (iii) or such Person's authorized user.

(y) "Deposit Account" is a demand deposit account (interest or non-interest bearing, as specified in the applicable Schedule A (Program Schedules)) or any other bank or transaction account established and provided by Bank to Customer in connection with a Program under this Agreement.

(ff) "FBO Account" means an omnibus custodial account owned by Bank, in which Bank pools the funds held by Program Manager's Customers, for the Customers' benefit, that also includes sub-accounts each of which are established in each Customer's name with its own account number extension relating to a Program under this Agreement (each, of which is a Deposit Account), provided such FBO Account shall be titled to demonstrate the account is owned by Bank for the benefit of Program Manager's Customers or such other name as may be agreed upon in writing by the Parties consistent with the requirements for such FBO Account under this Agreement.

(lll) " Rules" means any and all rules, bylaws, standards, protocols, operating regulations, guidelines, or procedures, and any amendment, interpretation, or modification of any such rule, bylaw, standard, protocol, operating regulation, guideline, or procedure, promulgated by a Network that govern or apply to Bank Services

related to a Program, including, without limitation, PCI DSS and the rules, bylaws, standards, protocols, operating regulations, guidelines, and procedures of NACHA and ECCHO.

7. **Amendment to Section 8(a) (Company's Obligation)**. All references to "Services" in Section 8(a) and Section 8(c) of the Agreement are hereby deleted and replaced with "Bank Services."

8. **Amendment to Schedule A**. Schedule A of the Bank Services Agreement is hereby amended to include as Schedule A-2 (ExtraCash Program), which is attached hereto as Exhibit A-2, which shall be included and incorporated into the Agreement as if set forth in full.

9. **Ratification and Acknowledgment**. Except as expressly modified under this Amendment, all of the terms, conditions, provisions, agreements, requirements, promises, obligations, duties, covenants and representations, and the like of Bank and Company, respectively, under the Bank Services Agreement are hereby ratified by Bank and Company. All references contained in the Bank Services Agreement to "Agreement" shall mean the Bank Services Agreement as supplemented and amended hereby.

10. **Merger and Integration**. This Amendment, from and after the date hereof, embodies the entire agreement and understanding between the Parties, and supersedes and has merged into it all prior oral and written agreements, on the same subjects by and between the Parties, with the effect that this Amendment shall control with respect to the specific subjects hereof.

11. **General**. This Amendment shall inure to the benefit of and be binding upon the Parties and each of their respective successors and assigns. This Amendment may be executed in any number of counterparts, all of which shall constitute one and the same agreement, and any Party may execute this Amendment by signing and delivering one or more counterparts. Delivery of an executed counterpart of this Amendment electronically or by facsimile shall be effective as delivery of an original executed counterpart of this Amendment.

12. **Governing Law**. This Amendment shall be interpreted and construed in accordance with the law identified Section 27 of the Bank Services Agreement.

IN WITNESS WHEREOF, this Amendment is executed by the Parties' authorized officers or representatives and shall be effective as of the Effective Date.

Bank: **Evolve Bank & Trust**	**Company**: **Dave Operating LLC**
By: /s/ Scot Lenoir	By: Kyle Beilman
Name: Scot Lenoir	Name: Kyle Beilman
Title: Chief Payments Officer	Title: Chief Financial Officer
Date: 8/21/2024 / 11:22:01 CDT	Date: 8/21/2024 / 11:44:33 PDT

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Exhibit A-2

Schedule A-2

ExtraCash Program Description

[**]

Exhibit 10.3

CERTAIN INFORMATION IN THIS DOCUMENT, MARKED BY [**], HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10)(iv). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

DEBIT CARD ISSUING AGREEMENT

Cover Page

This Debit Card Issuing Agreement ("Agreement") is entered into as of the 13th day of July, 2020 ("Effective Date") by and between Evolve Bank & Trust, an Arkansas state bank, ("Bank") and Dave Inc., a Delaware corporation ("Program Manager"). For purposes of this Agreement, Bank and Program Manager each will be referred to individually as a "Party" and together as the "Parties."

Notices:

If to Bank:	If to Program Manager:
Evolve Bank & Trust 6070 Poplar Avenue, Suite 100 Memphis, Tennessee 38119 Attention: Legal Department	Dave Inc. 1265 S. Cochran Avenue Los Angeles, California 90019 Attention: Legal

IN WITNESS WHEREOF, this Agreement is executed by the Parties' authorized officers or representatives and shall be effective as of the date below.

Bank: **Evolve Bank & Trust**	**Program Manager**: **Dave Inc.**
By: /s/ Scot Lenoir	By: /s/ Jason Wilk
Name: Scot Lenoir	Name: Jason Wilk
Title: Chairman	Title: CEO
Date: 7/14/2020 / 10:05:19 CDT	Date: 7/13/2020 / 5:49:41 CDT

DEBIT CARD ISSUING AGREEMENT

WHEREAS, Bank is a depository institution, member FDIC;

WHEREAS, Bank is a member of certain Card Associations and is in the business of issuing Cards and establishing Settlement Accounts for the Settlement of Card transactions;

WHEREAS, Bank and Program Manager have entered into that certain Bank Services Agreement, dated as of the Effective Date hereof, in order for Program Manager to service deposit accounts established by Bank (the "Bank Services Agreement");

WHEREAS, Bank desires that Program Manager provide services in support of the Program as further described in this Agreement; and

WHEREAS, Program Manager desires to provide such services in support of the Program on the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the terms, conditions and mutual covenants and agreements herein contained, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Bank and Program Manager mutually agree as follows:

1. **Definitions**. All capitalized terms used in this Agreement and not otherwise defined shall have the meanings set forth below.

"**Account**" has the same meaning as "Deposit Account," as defined in the Bank Services Agreement.

"**ACH**" means the Automated Clearing House.

"**Account Policies**" means the Program Manager's compliance policies and procedures, as submitted to and approved by Bank.

"**Affiliate**" means, with respect to a Party, a Person, whether a legal entity or an individual, who directly or indirectly controls, is controlled by or is under common control with the Party. For the purpose of this definition, the term "**control**" (including with correlative meanings, the terms controlling, controlled by and under common control with) means the power to direct the management or policies of such Person, directly or indirectly, through the ownership of twenty-five percent (25%) or more of a class of voting securities of such Person.

"**Agent**" means any third party service provider, processor, subcontractor or agent used by Program Manager in connection with the Program.

"**Aggregated De-identified Data**" has the meaning set forth in Section 16.

"**Agreement**" has the meaning set forth in the preamble hereto.

"**Applicable Law**" means applicable federal, state and local statutes, regulations, regulatory guidelines and judicial or administrative interpretations, as well as PCI-DSS and any rules or requirements established by the FDIC, the CFPB or the applicable Card Association, including, without limitation, the Truth in Lending Act and Regulation Z, the Equal Credit Opportunity Act and Regulation B, fair lending laws, the Servicemembers Civil Relief Act, the Fair Credit Reporting Act and laws on bank branching.

"**Applicant**" means a consumer who submits an Application or other request for an Account.

"**Application**" means the action or document by which a consumer requests and applies for an Account from Bank.

"**Application Processing**" means those services which are necessary to establish an Account in accordance with Applicable Law. Such services shall include but are not be limited to: application of the Account Policies to incoming Applications, Office of Foreign Assets Control screening, customer service described in Program Manager Card Services, collections, transaction authorization, statement preparation and issuance, regulatory compliance, security and fraud control, and activity reporting.

"**Bank**" has the meaning set forth in the preamble hereto.

"**Bank Card Services**" means any service other than Program Manager Card Services that Bank shall perform as set forth in Exhibit C.

"**Bank Indemnified Parties**" has the meaning set forth in Section 17(b).

"**Bank Marks**" has the meaning set forth in Section 21(a).

"**BSA/AML/OFAC Procedures**" has the meaning set forth in Section 11(a).

"**Business Day**" means any day, other than (a) a Saturday or Sunday, or (b) a day on which banking institutions in the State of Tennessee are authorized or obligated by law or executive order to be closed.

"**Card**" means any debit card or account access device or number issued by Bank under authority from one or more Card Associations that may be used to access funds in a Cardholder's Account. For purposes of this Agreement, a Card does not include any credit card or product that accesses credit.

"**Card Association**" means Mastercard, VISA, Accel, Cirrus, Plus and/or any other electronic payment network association enabled on Cards issued pursuant to the Program that is capable of transmitting items and Settlement thereof.

"**Card Program Materials**" has the meaning set forth in Section 5.

"**Cardholder Funds**" means all Cardholder funds received by Bank for loading or reloading to a Card, including, without limitation, all funds held in the Account for the Cardholder.

"**Cardholder**" means an individual, residing in the U.S., at or over the age of 18, who applies for, receives and activates an Account with Bank under the Program, and/or any Person who is liable, jointly or severally, for amounts owing with respect to an Account.

"**Cardholder Agreement**" means the agreement between Bank and a Cardholder with terms and conditions that apply to the Cardholder's Account and Card, including all disclosures required by Applicable Law.

"**Cardholder Information**" means all information, whether personally identifiable or in aggregate, that is submitted and/or obtained by Bank about an Account or an Application (whether or not completed), including, without limitation, financial standing and demographic data, Cardholder Data (as defined by PCI-DSS) and transaction data. Cardholder Information includes "Non Public Personal Information" and "Personally Identifiable Financial Information" (as defined in Sections 1016.3(p) and (q) respectively of the CFPB regulations on Privacy of Consumer Information published at 12 CFR Chapter X).

"**CFPB**" means the Consumer Financial Protection Bureau.

"**Change in Control**" means any of (a) the sale or transfer of all or substantially all the assets of a Party to a Person who is not an Affiliate of such Party; (b) as to Program Manager, (i) the acquisition by a Person or group of Persons of more than fifty percent (50%) of the voting securities or voting interests in Program Manager; (ii) the acquisition or accumulation by any Person or group of Persons of the power, direct or indirect, to elect a majority of a Program Manager's board of directors or similar governing body or to direct or cause the direction of the management and policies of Program Manager, whether by contract or otherwise; or (iii) the merger or consolidation of Program Manager with or into another Person who is not an Affiliate of Program Manager, or the merger or consolidation of another Person who is not an Affiliate of Program Manager with or into Program Manager, in either case with the effect that, following such merger or consolidation, more than fifty percent (50%) of the voting power of all securities or interests of the surviving entity are not owned, directly or indirectly, by Persons who directly or indirectly owned fifty percent (50%) or more of the voting power of all securities or interests of Program Manager immediately prior to such transaction; and (c) as to Bank, any transfer of ownership or control, including the transfer or issuance of any voting securities of any type (whether debt or equity), that would constitute a change of control under the Change in Bank Control Act.

"**Change of Ownership**" means any transfer or other change in the equity ownership or voting control of a Party that does not constitute a Change in Control, including without limitation the issuance of debt or equity securities in a non-controlling amount and type to new investors.

"**Chargeback**" means a transaction using the Account that is subsequently reversed pursuant to Card Association rules.

"**Claim Notice**" has the meaning set forth in Section 17(d).

"**Compliance Audit**" has the meaning set forth in Section 26(b).

"**Confidential Information**" means the Program Documents, any information that is disclosed by the Disclosing Party to the Restricted Party or any information of the Disclosing Party to which the Restricted Party obtains access in connection with the Program and that relates to the Disclosing Party's business or the Parties' business relationships, including proprietary information or non-public information of the Disclosing Party, such as the Disclosing Party's proprietary marketing plans and objectives, that the Disclosing Party discloses to the Restricted Party or to which the Restricted Party obtains access in connection with the negotiation or performance of this Agreement.

"**Cure Period**" has the meaning set forth in Section 19(b)(i).

"**Disclosing Party**" has the meaning set forth in Section 21(a).

"**Dispute**" has the meaning set forth in Section 35(c)(i).

"**Effective Date**" has the meaning set forth in the preamble hereto.

"**FDIC**" means the Federal Deposit Insurance Corporation.

"**Force Majeure Event**" has the meaning set forth in Section 44.

"**Indemnifiable Claim**" has the meaning set forth in Section 17(c).

"**Indemnified Parties**" has the meaning set forth in Section 17(c).

"**Indemnifying Party**" has the meaning set forth in Section 17(c).

"**Initial Term**" has the meaning set forth in Section 19(a).

"**Insolvent**" means the failure to pay debts in the ordinary course of business, the inability to pay its debts as they come due or the condition whereby the sum of an entity's debts is greater than the sum of its assets.

"**Intellectual Property**" means (a) inventions, improvements, patents (including all reissues, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof) and patent applications, (b) trademarks, service marks, trade names and trade dress, together with the goodwill associated therewith, (c) works of authorship and copyrights, including copyrights in computer software, databases and television programming and all rights related thereto, (d) confidential and proprietary information, including trade secrets and know how, (e) process, methods, procedures and materials, (f) data, databases and information, (g) software, tools and machine-readable texts and files, (h) literary work or other work of authorship,

including documentation, reports, drawings, charts, graphics and other written documentation, together with all copyrights and moral rights, (i) all other proprietary rights, and (j) all registrations and applications for registration and other intellectual property rights in or appurtenant to the foregoing items described in clauses (a) through (i) above.

"**Losses**" has the meaning set forth in Section 17(a).

"**Marketing Activities**" means all advertising media of any kind or nature, in whole or in part, including without limitation, catalogs, email solicitation messages, published advertising (such as newspaper and magazine advertisements), SMS text messaging, Internet media, blogs, tweet posts, banner ads, RSS feeds, telemarketing scripts, television or radio advertisements, frequently asked questions, promoting, advertising and/or marketing the Program.

"**Marketing Materials**" means categories of marketing messages intended to generate Applications for the origination of Accounts from a targeted population delivered through various Marketing Activities. Marketing Materials include, but are not limited to, pre-approved marketing, "take one" marketing, and introductory rate marketing.

"**ODFI**" has the meaning set forth in Section 8(e).

"**Offer Period**" has the meaning set forth in Section 32.

"**Offeror**" has the meaning set forth in Section 32.

"**Party**" and "**Parties**" has the meaning set forth in the preamble hereto.

"**PCI Compliant**" means compliant with PCI-DSS to ensure the proper handling and protection of payment accounts and transaction information which is stored, processed or transmitted. For this purpose, the term "PCI Compliant" includes but is not limited to Program Manager's obligation to have an annual on-site PCI Data Security Assessment completed by a Qualified Security Assessor (QSA) and a Report on Compliance that must be signed by the QSA and sent securely to a Card Association.

"**PCI-DSS**" means the Payment Card Industry Data Security Standards administered by the PCI Standards Council that are in effect as of the Effective Date of this Agreement and as they may be amended from time to time.

"**PCI Requirements**" has the meaning set forth in Section 15(c).

"**Person**" means any legal person, including any individual, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, governmental entity, or other entity of similar nature.

"**Principal**" means any Person directly or indirectly owning ten percent (10%) or more of Program Manager, and any executive officer or director of Program Manager.

"**Processing Services**" means the processing of a transaction in accordance with Applicable Law and the rules of Card Associations and any Regulatory Authority.

"**Program**" means a system of services approved by Bank, including the consumer debit or prepaid card program to be offered by Bank to Cardholders pursuant to the terms of this Agreement, initially as described in Exhibit A of the Bank Services Agreement, which is incorporated herein and may be amended from time to time by written agreement. This Agreement contemplates that Program Manager may be permitted by Bank to offer multiple Programs hereunder, each subject to the terms hereof and the prior written approval of Bank.

"**Program Documents**" means this Agreement, all Exhibits and addenda attached hereto and any other documents related to the Program and referenced herein and agreed to between Program Manager and Bank in accordance with the terms hereof, as may be amended from time to time.

"**Program Manager**" has the meaning set forth in the preamble hereto.

"**Program Manager Card Services**" means all services to be performed by the Program Manager as set forth in Exhibit D.

"**Program Manager Financial Requirement**" has the meaning set forth in Section 13(b)(viii).

"**Program Manager Indemnified Parties**" has the meaning set forth in Section 17(a).

"**Program Manager Marks**" has the meaning set forth in Section 21(b).

"**Program Manager Reserve Account**" has the meaning set forth in Section 29.

"**Program Manager Revenue Account**" has the meaning set forth in Section 30.

"**Qualifying Change**" has the meaning set forth in Section 3(c).

"**RDFI**" has the meaning set forth in Section 8(e).

"**Records**" means any Cardholder Agreements, Applications, change-of-terms notices, Account files, credit bureau reports, copies of adverse action notices, transaction data, records, or other documentation (including computer tapes, magnetic or electronic files, and information in any other format) related to the Accounts and the Program.

"**Regulatory Authority**" means any federal, state or local regulatory agency or other governmental agency or authority having jurisdiction over a Party and, in the case of Bank, shall include, but not be limited to, the CFPB and FDIC.

"**Regulatory Communication**" has the meaning set forth in Section 12(b).

"**Renewal Term**" has the meaning set forth in Section 19(a).

"**Reserve Balance**" has the meaning set forth in Section 29(a).

"**Restricted Party**" has the meaning set forth in Section 20(c).

"**SAR**" has the meaning set forth in Section 10.

"**Settlement**" means the movement of funds between Bank, other financial institutions and the Card Associations to settle all transactions initiated by use of any Card or Account by or on behalf of a Cardholder, including purchases, merchant charges, withdrawals, and any other transactions.

"**Settlement Amount**" means the amount of funds identified by the Card Association for Settlement of transaction initiated by use or in connection with the Account for the related calendar day.

"**Settlement Account**" means the account maintained and controlled by Bank that is used for Settlement of the Settlement Amount.

"**Substantive Change**" means a change to the Marketing Activities, the categories of the Marketing Materials, or any items required by (a) Applicable Law, or (b) requirements previously identified by Bank in good faith as necessary due to safety and soundness or reputational concerns.

"**Successor Bank**" has the meaning set forth in Section 19(d)(v).

"**Term**" has the meaning set forth in Section 19(a).

"**Termination Fee**" has the meaning set forth in Section 19(d)(iii).

"**TPA**" has the meaning set forth in Section 7(a).

"**Wind Down Period**" has the meaning set forth in Section 19(d)(v).

2. **The Program**. Beginning on the Effective Date of this Agreement, the Parties agree to launch the Program on the terms and conditions otherwise provided for in this Agreement and as further described in Exhibit A.

3. **Marketing Materials; Card Production**. Program Manager shall promote and market the Program, the Accounts and the Cards using any form of Marketing Materials and Marketing Activities determined to be appropriate by Program Manager, subject to Bank's prior approval as set forth herein. Bank agrees that Program Manager may refer to Bank and the Program in Marketing Materials upon the condition that the form of any references to Bank and/or the Program in any such Marketing Material is approved by Bank. All Marketing Materials must receive the prior written approval of Bank, in accordance with the procedures set forth in this Section 3. Bank shall conduct its initial review and shall accept or reject such forms of Marketing Materials and/or Marketing Activities provided by Program Manager within five (5) business days of Program Manager submitting such Marketing Materials and/or Marketing Activities to Bank at [**] for review; any such forms of Marketing Materials and/or Marketing Activities not rejected, conditionally accepted with Bank's comments, or accepted within five (5) business days shall be deemed approved. ("Initial Review Process"). Should Bank conditionally accept with comments or otherwise request revisions to any forms of Marketing Materials and/or Marketing Activities during Bank's Initial Review Process and Program Manager resubmits revised Marketing Materials and/or Marketing Activities to Bank at [**], Bank shall accept or reject with specific comments such revised Marketing Materials and/or Marketing Activities within five (5) business days of such resubmission; any such forms of Marketing Materials and/or Marketing Activities not specifically rejected or accepted within five (5) business days shall be deemed approved ("Resubmit Review Process"). Should Bank conditionally accept with comments or otherwise request further revisions after the Resubmit Review Process and Program Manager resubmits revised Marketing Materials and/or Marketing Activities to Bank at [**], Bank shall accept or reject with specific comments such revised Marketing Materials and/or Marketing Activities within two (2) business days of such resubmission; any such forms of Marketing Materials and/or Marketing Activities not specifically rejected or accepted within two (2) business days shall be deemed approved ("Final Review Process").

(a) Prior to Program Manager's use of any Marketing Materials or conducting any Marketing Activities, Bank shall have completed an initial review of the forms of Marketing Materials and Marketing Activities proposed by Program Manager and approve or reject any such forms of Marketing Materials and Marketing Activities that have been provided to Bank. Marketing Materials and Marketing Activities will be considered approved and authorized by Bank once such approval and authorization are clearly communicated by Bank in writing, provided that Bank does not subsequently revoke its approval pursuant to the terms of Section 6(b) (Changes to Marketing Materials or Card Program Materials).

(b) Thereafter, Program Manager shall make available for Bank's prior review and approval all new forms of Marketing Materials and Marketing Activities proposed by Program Manager. Bank shall review and approve or reject any such forms of Marketing Materials and Marketing Activities within: (i) for direct mail Marketing Materials, three (3) Business Days after Bank's receipt of such Marketing Materials; and (ii) for all other Marketing Materials or Marketing Activities, five (5) Business Days after Bank's receipt of such Marketing Materials or Marketing Activities. Notwithstanding any timeframes set forth in this Section 3(b), Bank may require additional time for review and approval if Bank determines, in its sole discretion, that Card Association review or approval is required. Bank shall notify Program Manager of the need for Card Association review or approval and shall periodically inform Program Manager of the status of the Card Association review or approval. Marketing Materials and Marketing Activities will be approved and authorized by Bank once such approval and authorization are clearly communicated by Bank in writing to Program Manager, provided that Bank does not subsequently revoke its approval pursuant to the terms of Section 6(b) (Changes to Marketing Materials or Card Program Materials).

(c) After approval of the form of Marketing Materials or Marketing Activities pursuant to Section 3(a) or 3(b), and subject to Section 6(b) (Changes to Marketing Materials or Card Program Materials), Program Manager may use such forms of Marketing Materials and Marketing Activities, and need not seek further approval for use of such forms unless there is: (i) a Substantive Change in the Marketing Materials or Marketing Activities, or (ii) a new offering to be included in the Marketing Materials (each of the events in clauses (i) and (ii), a "**Qualifying Change**"). In the event of a Qualifying Change, Program Manager shall submit such forms of Marketing Materials and Marketing Activities to Bank for review and approval in accordance with Section 3(b).

(d) Bank may request up to four (4) periodic reviews of the Marketing Materials and Marketing Activities then being used by Program Manager in each calendar year, provided, however, that Bank may request additional reviews of the Marketing Materials and Marketing Activities if required by a Regulatory Authority or if Bank determines, in its sole discretion, that Program Manager is in, or is likely in, breach of any provision of this Agreement or Applicable Law. Bank and Program Manager shall cooperate to determine the form, format, frequency, and timing of such reviews to minimize expense and disruption.

(e) Program Manager shall be liable for all claims arising from the use by Program Manager or Agents acting on Program Manager's behalf of any Marketing Materials or Marketing Activities. Program Manager shall ensure that all Marketing Materials and Marketing Activities shall comply with Applicable Law, shall be accurate in all material respects and not be misleading; provided that Program Manager may rely on the accuracy of information included in the Marketing Materials and/or Marketing Activities which is provided and approved by Bank. Nothing herein shall serve to undermine Program Manager's indemnification obligations under this Agreement.

(f) Within thirty (30) days of the date of execution of this Agreement, or as otherwise mutually agreed in conjunction with the development of the Marketing Materials, the Parties will create mutually acceptable designs for the front and back of the Card. Such designs will be subject to compliance with Applicable Law and Card Association rules. In accordance with this Section 3(f), Bank will produce, store, maintain, and emboss plastic stock for Cards from time to time and in quantities adequate for the Program in a manner that is PCI Compliant or otherwise consistent with the data security standards set forth in Section 15 (Data Security) of this Agreement.

4. **Issuance of Accounts and Cards**.

(a) Subject to the terms of this Agreement and Applicable Law, including those on bank branching, Bank agrees to issue Cards and make Accounts available to qualifying Applicants residing in any state in the United States, its territories and the District of Columbia.

(b) Program Manager acknowledges that Bank is under no obligation to establish an Account for any Applicant. Notwithstanding anything to the contrary, Bank may, in its sole discretion, reject or decline to establish an Account if Bank determines to establish an Account would constitute an unsafe or unsound banking practice, pose undue reputational or financial risk to Bank or violate Applicable Law.

5. **Program Materials and Account Policies**. Program Manager shall be responsible for the development, production and distribution of all documents, terms and procedures necessary and proper to administer the Program (the "Card Program Materials"). Card Program Materials shall comply in all material respects with applicable Card Association rules and all Applicable Law. Prior to the formal launch of the Program, Bank shall provide Program Manager with an Account Policies, which Program Manager shall comply with in marketing, servicing, approving and managing Accounts. The Account Policies is considered a Card Program material. For the avoidance of doubt, Program Manager shall be responsible for all liability associated with Cardholder Accounts, including fraud and Chargeback liability, even if such Cardholder Account was approved in compliance with the Account Policies. Within ten (10) Business Days of the Effective Date, Program Manager shall provide a form Cardholder Agreement, form Application, and its Privacy Policy, all of which are considered Card Program Materials to be used in connection with the Program, to Bank for its approval. The Parties acknowledge that each Cardholder Agreement and all other documents referring to the issuer of Cards for the Program shall identify Bank as the issuer. The Cardholder Agreement shall further provide, as appropriate, that it is governed by Tennessee[1] and federal law. Program Manager may not offer any collections products or accept fees for collections services using credit cards. Any changes to the Card Program Materials described above must be approved in advance by Bank.

6. **Changes to Marketing Materials or Card Program Materials**.

(a) Changes to Card Program Materials, including a determination that any Card Program Materials are no longer authorized, may be made upon the request of either Party subject to the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, however, that Bank may change the Card Program Materials or determine that any Card Program Materials are no longer authorized upon written notice to Program Manager to the extent that such change or determination is required by Applicable Law or Regulatory Authority or necessitated in Bank's reasonable determination by safety and soundness or reputational concerns. Unless such changes are required sooner by Applicable Law or a Regulatory Authority, upon Program Manager's receipt of written notice from Bank of any changes to the Card Program Materials or a determination that any Card Program Materials are no longer authorized, Program Manager shall implement such change or determination as soon as commercially practicable but in no event later than thirty (30) days (or earlier if required by Applicable Law or Regulatory Authority) from Program Manager's receipt of notice of such change or determination.

(b) Bank may change the Marketing Materials or Marketing Activities previously approved by Bank or determine that any Marketing Materials or Marketing Activities previously approved by Bank are no longer authorized upon written notice provided to Program Manager only to the extent that such change is required by Applicable Law or a Regulatory Authority or necessitated in Bank's reasonable determination by safety and soundness concerns. Unless such changes are required sooner by Applicable Law or a Regulatory Authority, upon Program Manager's receipt of written notice from Bank of any changes to the Marketing Materials or Marketing Activities or a determination that any Marketing Materials or Marketing

Activities are no longer authorized, Program Manager shall implement such change or determination as soon as commercially practicable but in no event later than thirty (30) days (or earlier if required by Applicable Law or Regulatory Authority) from Program Manager's receipt of notice of such change or determination.

7. **Account Origination, Application Processing, Servicing**.

(a) As a third-party agent (also known as third party service provider) ("TPA") for Bank under applicable Card Association rules, Program Manager shall solicit Applications from Applicants and shall perform Application Processing on behalf of Bank (including retrieving credit reports, if applicable) to determine whether the Applicant meets the eligibility criteria set forth in the Account Policies. As TPA for Bank, Program Manager shall respond to all inquiries from Applicants and from Bank regarding the Application Processing. Program Manager shall conduct Application Processing for each Applicant who requests an Account and shall approve on behalf of Bank only the requests of Applicants who meet the eligibility criteria set forth in the Account Policies. Without limiting any other provision of this Agreement, in performing its obligations under this Section 7 and its other obligations under this Agreement, Program Manager shall comply with Applicable Law.

(b) Subject to the terms of this Agreement and limits set forth in Section 4 (Issuance of Accounts and Cards), Bank shall issue Cards to and establish Accounts with Applicants who meet the eligibility criteria set forth in the Account Policies and who accept the Account offer.

(c) Pursuant to procedures mutually agreed by the Parties, Program Manager shall deliver all notices required by Applicable Law to Applicants who do not meet the Account Policies criteria or are otherwise denied an Account under the Program. All notices shall be delivered in form, content and timing in accordance with Applicable Law.

(d) Program Manager shall deliver to Applicants the Cardholder Agreements, Cards, Bank's and Program Manager's privacy notices and any other Card Program Materials required to be delivered to Applicants and shall obtain appropriate signatures or other authorization from Applicants and any third party required by Bank to open on an Account and issue a Card, and take all other actions necessary for Bank to open an Account and issue a Card, all in accordance with Applicable Law, Card Association rules, and PCI-DSS (or the data security standards set forth in Section 15 (Data Security) of this Agreement).

(e) Program Manager shall be responsible for providing all Program Manager Card Services in accordance with Applicable Law, and service-level standards agreed to between Bank and Program Manager, and in a manner that is PCI Compliant or otherwise consistent with the data security standards set forth in Section 15 (Data Security) of this Agreement and shall maintain all Records related to Accounts in accordance with Applicable Law. Program Manager will be responsible for costs associated with administering the Account in accordance with this Agreement. The Parties shall mutually agree upon procedures for resolving Cardholder payments incorrectly received by a Party. Bank and Program Manager will cooperate to develop procedures regarding the referral of Cardholders who contact a party concerning a claim, complaint, dispute or request for information regarding the other Party. Bank will promptly, but in no event later than one (1) business day, refer to Program Manager, or its Agent designated by Program Manager, any Cardholder or Applicant who contacts Bank concerning complaints, disputes or Chargebacks related to any Program Manager Card Service.

(f) Program Manager will administer the Accounts, including collecting and applying payments on Accounts. Payments will be made by Cardholders on Accounts by methods made available to Cardholders, as set forth in the Cardholder Agreement. If payment is not timely made on an Account, Bank shall have the right to exercise any security interest set forth in this Agreement.

(g) Program Manager shall perform its obligations described in this Section 7 and Program Manager Card Services, and deliver any other customer communications to Applicants as necessary to carry on the Program, in accordance with Applicable Law, all at Program Manager's own cost. Subject to Section 23 (Expenses), Program Manager shall pay all third-party costs associated with account processing and origination, including but not limited to expenses related to Card Associations and credit bureaus.

(h) In performing its obligations under this Section 7, Program Manager will act as Bank's TPA pursuant to applicable Card Association rules. As soon as practicable after the Effective Date, Program Manager will provide materials to Bank and Bank will apply for Card Association's approval of Program Manager to act as Bank's TPA. Program Manager will not commence any activities relating to the marketing or soliciting of consumers for Cards until it has received the Card Association's approval to act as a TPA of Bank, and until Bank provides written approval to Program Manager to begin any Card-related marketing or processing activities. Thereafter, Program Manager agrees to maintain its status as TPA of Bank consistent with and to otherwise comply with Card Association rules and in a manner that is consistent with the data security standards set forth in Section 15 (Data Security) of this Agreement. Upon receiving any notice from the Card Association or Bank that it is not in full compliance with Card Association rules, Program Manager shall cure any such non-compliance within thirty (30) days (or earlier if required by Applicable Law); provided, however, Bank in its sole discretion may allow this time period to be extended if Program Manager has commenced such cure and is continuing to pursue such cure in good faith using commercially reasonable efforts.

8. **Card Services, Transaction Processing, Settlement**.

(a) Program Manager will be responsible and liable for all Program Manager Card Services for the Program, and Bank will be responsible for all Bank Card Services for the Program. Each Program Manager and Bank shall be responsible for ensuring that all of its respective activities are consistent with Applicable Law. Bank shall be responsible for providing actual Settlement with the Card Association in accordance with Card Association rules.

(b) Program Manager, at its sole expense, shall provide for Processing Services. Any processor retained by Program Manager to provide Processing Services must be approved in advance by Bank, and must have executed a Processing Services Agreement, such approval not to be unreasonably withheld, conditioned or delayed. Bank agrees that currently approved processors, are those listed on Exhibit A, as updated from time to

time by Bank in writing. Program Manager shall be responsible for all costs (if any), including reasonable attorneys' fees, associated with the approval of and integration of processor.

(c) Bank shall be responsible for Settlement with the Card Associations each Business Day for all transactions posted to the Account, including Cardholder purchases, automated teller machine withdrawals and other transactions in accordance with applicable Card Association requirements. Prior to the close of business each Business Day, Bank will debit or credit the Settlement Account for the Settlement Amount. Prior to any transfer contemplated by the prior sentence, Program Manager shall cause funds equal to the Settlement Amount to be transferred from the Account(s) to the Settlement Account; provided, any deficiency in funds in the Account(s) shall be the responsibility of Program Manager. Bank may, prior to the close of each Business Day, debit or set-off from any Program Manager account, including the Program Manager Reserve Account, for any amounts owed to the Card Associations or any Settlement Amount.

(d) On each Business Day during the term of this Agreement, the Account(s) shall be credited for the following: (i) funds received by approved Program load formats; (ii) deposits to the Account(s); and (iii) any other credits due to Cardholders. Program Manager will be responsible for overseeing and managing all such credits. Program Manager will be responsible for ensuring that each Account will be at all times appropriately funded by deposits or funds in transit in an amount that is no less than 100% of the total amount of currency represented as active and available to Cardholders of the current day's balances of Cardholder Funds. Program Manager will be responsible for overseeing and managing such funding. Program Manager shall be responsible and liable for any failure of an Account to be fully funded in accordance with this provision; provided such failure is not caused by Bank's negligent actions or omissions, or its agents, assigns, or third party contractors (excluding Program Manager and its Agents). In the event of any such failure, Bank may offset any deficient funds from the Program Manager Reserve Account or, upon Bank's request, Program Manager shall, within one (1) Business Day after receiving notice of such failure, fully fund any shortfall in the Account(s).

(e) Any ACH "origination" services provided to by Bank are governed by and limited to the services set forth in the Bank Services Agreement. Bank will act as Receiving Depository Financial Institution ("RDFI") for receipt of all Cardholder Funds. Bank's duties and obligations related to ACH services under this Agreement are limited solely to the duties and obligations set forth operating rules and guidelines of the National Automated Clearing House Association. Program Manager agrees to perform all services relative to Bank's RDFI functions in accordance with all Applicable Law. Program Manager shall be financially responsible for all Cardholder Funds transmitted with or by approved third-party agents or service providers, and Program Manager's contracts with any load networks shall reflect appropriate controls and indemnification regarding such activity, except to the extent of any loss of Cardholder Funds results from Bank's gross negligence, willful misconduct, or acts or omissions other than in accordance with this Agreement. Notwithstanding anything to the contrary in this Agreement, Bank shall not be responsible under any circumstance other than its negligent or intentional acts or omissions for misdirected Cardholder Funds through any load network of the Program or for any misdirected Cardholder Funds in connection with services offered by a third-party service provider of Program Manager. Examples of Bank-approved entities for the purpose of transmitting Cardholder Funds under this Agreement are approved correspondent banks, the Federal Reserve or approved Program Manager load networks (examples include, but are not limited to, Western Union and Money Gram).

9. **Fees**. In consideration of performing their respective obligations in connection with the Program, the Parties will receive the amounts provided in Exhibit B. Additionally, Program Manager agrees that at a minimum it shall pay to Bank on a monthly basis fees equal to the Monthly Program Minimums described in Exhibit B. Bank shall remit to Program Manager's Program Manager Revenue Account any fees it may owe to Program Manager pursuant to Exhibit B.

10. **Fraud and Risk Management**. Program Manager agrees that it is financially and operationally responsible for all compromised Cards and/or Accounts. Bank shall adopt and implement such fraud monitoring practices as required by Applicable Law and the Card Association rules, and Program Manager will bear the risk of all fraud losses other than fraud losses due to Bank's gross negligence or willful misconduct hereunder. Subject to the prior sentence, Program Manager shall reimburse Bank for any losses it incurs in connection with an Account due to fraud or any other losses associated with the Account. Program Manager shall promptly report to Bank any information necessary for bank to investigate, make a determination and be able to file a suspicious activity report ("SAR") with the Financial Crimes Enforcement Network. The Parties acknowledge that the contents of a SAR and the fact that Bank has filed a SAR are strictly confidential under Applicable Law. Program Manager further agrees to promptly provide to Bank any information it may deem necessary to resolve any complaints of fraudulent Account activity.

11. **Applicable Law**.

(a) Each Party will comply with all Applicable Law, including all rules, orders and decrees of any Regulatory Authority with jurisdiction over Bank (even if such Regulatory Authority does not have or would not have authority over Program Manager), and Card Association rules that relate to the Parties' performance of their respective duties and obligations pursuant to this Agreement. Without limiting the foregoing, Program Manager shall develop, implement and maintain an anti-money laundering and OFAC compliance program compliant with Applicable law and approved by Bank (the "BSA/AML/OFAC Procedures") and shall be liable for any failure of its BSA/AML/OFAC Procedures in connection with the Program. Program Manager shall ensure that each of its and its Critical Service Providers' employees shall receive at least annual compliance training on all Applicable Law, including anti-money laundering compliance training, and Card Association and Program requirements and procedures, to be acknowledged by each, beginning within one hundred eighty (180) days of the Effective Date.

(b) Program Manager shall be responsible for preparing and providing all reporting necessary for all state, local and federal tax filings relating to the Program. To the extent filings are required to be made by Bank, Program Manager shall provide Bank with the data and reporting relating to the Program and Bank shall make the required filings.

(c) Bank shall be responsible for managing and complying with any escheatment or unclaimed property requirements applicable to the Program, and Program Manager shall maintain all necessary information and Records, including Account records and Account activity. Program Manager shall promptly provide any information requested by Bank to fulfill its obligations under Applicable Law.

12. **Notice of Actions; Regulatory Communications.**

(a) Each Party shall, to the extent not prohibited by Applicable Law, notify the other, promptly, but in no event later than five (5) Business Days after becoming aware, of any actual or threatened litigation, investigation, proceeding, or judicial, tax or administrative action by any Regulatory Authority, state attorney general or any other Person which, if resolved adversely to it, would reasonably be expected to materially adversely affect such Party's continuing operations, its indemnity obligations under this Agreement, or its ability to perform its obligations under this Agreement or the Program, and each Party shall provide the other Party with all related documentation thereof, unless such Party is prohibited from sharing any such notice or documentation. Each Party shall cooperate in good faith and provide such assistance, at the other Party's request, to permit the other Party to promptly resolve or address any such actions.

(b) Each Party shall, to the extent not prohibited by Applicable Law and the actions or requirements of a Regulatory Authority, provide the other Party with notice and copies of any material communications from any Regulatory Authority regarding any matter which, if resolved adversely to it, would reasonably be expected to materially adversely affect the Program (each, a "Regulatory Communication") received by such Party within five (5) Business Days of receipt of such Regulatory Communication. For any Regulatory Communication to any Regulatory Authority with examination authority over Bank and for which a response from either Party is required or in either Party's reasonable judgment is prudent, the Parties shall coordinate and cooperate on the response, provided, however, Bank shall have the final authority to approve the actual response to a Regulatory Authority with direct supervision over the Bank. Bank agrees to provide such actual response to Program Manager promptly after providing such response to the applicable Regulatory Authority, if allowable under such Regulatory Authority or Applicable Law.

13. **Representations, Warranties and Covenants.**

(a) Bank hereby represents, warrants and covenants to Program Manager that:

(i) Bank is a state bank, duly organized, validly existing under the laws of the State of Arkansas and Bank has full corporate power and authority to execute, deliver, and perform its obligations under this Agreement; the execution, delivery and performance of this Agreement has been duly authorized, and is not in conflict with and does not violate the terms of the charter or bylaws of Bank and will not result in a breach of or constitute a default under, or require any consent under, any indenture, loan or agreement to which Bank is a party;

(ii) All approvals, authorizations, licenses, registrations, consents, and other actions, notices, and filings that may be required in connection with the execution, delivery, and performance of this Agreement by Bank, have been obtained (other than those required to be made to or received from Cardholders and Applicants);

(iii) This Agreement constitutes a legal, valid, and binding obligation of Bank, enforceable against Bank in accordance with its terms, except: (1) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, receivership, conservatorship or other similar laws now or hereafter in effect, including the rights and obligations of receivers and conservators under 12 U.S.C. §§ 1821 (d) and (e), which may affect the enforcement of creditors' rights in general, and (2) as such enforceability may be limited by general principles of equity (whether considered in a suit at law or in equity);

(iv) There are no proceedings or investigations pending or, to the best knowledge of Bank, threatened against Bank (1) asserting the invalidity of this Agreement, (2) seeking to prevent the consummation of any of the transactions contemplated by Bank pursuant to this Agreement, (3) seeking any determination or ruling that, in the reasonable judgment of Bank, would materially and adversely affect the performance by Bank of its obligations under this Agreement, (4) seeking any determination or ruling that would materially and adversely affect the validity or enforceability of this Agreement, or (5) that would have a materially adverse financial effect on Bank or its operations if resolved adversely to it;

(v) Bank is not Insolvent;

(vi) The execution, delivery and performance of this Agreement by Bank complies with all Applicable Laws specifically applicable to Bank or its operations; and

(vii) Bank is a member of the applicable Cardholder Association.

(b) Program Manager hereby represents, warrants and covenants to Bank that:

(i) Program Manager is duly organized and validly existing in good standing under the laws of the state in which it is formed and operates, and has full power and authority to execute, deliver, and perform its obligations under this Agreement; the execution, delivery, and performance of this Agreement has been duly authorized, and is not in conflict with and does not violate the terms of the certificate of incorporation or bylaws of Program Manager, and will not result in a breach of or constitute a default under or require any consent under any indenture, loan, or agreement to which Program Manager is a party except such consents as Program Manager shall have received on or prior to the date hereof;

(ii) All approvals, authorizations, consents, and other actions by, notices to, and filings required to be obtained for the execution, delivery, and performance of this Agreement by Program Manager have been obtained;

(iii) All licenses and registrations required by Program Manager to execute, deliver, and perform its obligations under this Agreement have been obtained;

(iv) Program Manager has provided to Bank in writing a list of its Agents used in support of the Program. Program Manager will inform Bank in writing prior to any use of another Agent so that Bank can comply with the Card Association registration requirements for third

party agents if that Agent needs to be registered. Program Manager will not make use of such an Agent that may be a Critical Service Provider until Bank has notified Program Manager in writing that Bank has approved such Agent or that such approval is not necessary;

(v) This Agreement constitutes a legal, valid, and binding obligation of Program Manager, enforceable against Program Manager in accordance with its terms, except: (1) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or other similar laws now or hereafter in effect, which may affect the enforcement of creditors' rights in general, and (2) as such enforceability may be limited by general principles of equity (whether considered in a suit at law or in equity);

(vi) There are no proceedings or investigations pending or, to the best knowledge of Program Manager, threatened against Program Manager: (1) asserting the invalidity of this Agreement, (2) seeking to prevent the consummation of any of the transactions contemplated by Program Manager pursuant to this Agreement, (3) seeking any determination or ruling that, in the reasonable judgment of Program Manager, would materially and adversely affect the performance by Program Manager of its obligations under this Agreement, (4) seeking any determination or ruling that would materially and adversely affect the validity or enforceability of this Agreement, or (5) that would have a materially adverse financial effect on Program Manager or its operations if resolved adversely to it;

(vii) Program Manager is not Insolvent;

(viii) Program Manager has at all times during the Term of this Agreement or any extension cash on hand in excess of what is needed in order for Program Manager to meet all debt-related covenants to any third party (a "Program Manager Financial Requirement");

(ix) The execution, delivery and performance of this Agreement by Program Manager complies with Applicable Law;

(x) Except as otherwise disclosed to Bank, neither Program Manager nor, to the actual knowledge of Program Manager's executive officers, any Principal of Program Manager, has been subject to the following as of the date of this Agreement: (1) any criminal conviction (except minor traffic offenses and other petty offenses), (2) Federal or state tax lien, (3) administrative or enforcement proceedings commenced by the Securities and Exchange Commission, any state securities authority, Federal Trade Commission, or any Regulatory Authority, or (4) restraining order, decree, injunction, or judgment entered in any proceeding or lawsuit alleging fraud or deceptive practice on the part of Program Manager or any Principal thereof. Program Manager agrees to notify Bank within two (2) Business Days upon the occurrence of any event contemplated by this Section 13(b)(x);

(xi) Prior to the Effective Date of this Agreement, Program Manager has delivered to Bank copies of Program Manager's: (1) balance sheets, (2) income statements, (3) cash flow records, or (4) any off balance sheet loans that Program Manager has guaranteed, and any loss history of the same;

(xii) Program Manager shall remain in compliance at all times (subject to any applicable cure periods) with all financial requirements and covenants to which it is subject in all agreements under which it borrows funds from third party creditors; and

(xiii) Program Manager may not receive, store, process or otherwise obtain Cardholder Data (as defined by PCI-DSS) until it becomes PCI Compliant. Program Manager shall remain in compliance at all times with Applicable Laws, including any and all regulations or laws applicable to Program Manager as agent of the Bank, the Program, the Card or Deposit Account (as defined in the Bank Services Agreement) and orders by Bank's Regulatory Authority to the extent Program Manager is acting as Bank's TPA. Prior to receiving, storing, processing or otherwise obtaining Cardholder Data (as defined by PCI-DSS), Program Manager shall give prior notice to the Bank and shall become and remain PCI Compliant.

(c) The representations and warranties of the Parties contained in Sections 13(a) and 13(b), except those representations and warranties contained in Sections 13(a)(iv), 13(b)(vi), are made continuously throughout the Term of this Agreement. In the event that any investigation or proceeding of the nature described in Section 13(a)(iv) or 13(b)(vi) is instituted or threatened against Program Manager or Bank, Program Manager or Bank shall promptly notify the other Party of the pending or threatened investigation or proceeding, unless otherwise prohibited by Applicable Law or a Regulatory Authority.

14. **Other Relationships with Cardholders**.

(a) Subject to Applicable Law, Bank's privacy policy and consistent with the Cardholder Agreement, Program Manager, at its own expense, shall have the right to solicit Applicants and/or Cardholders with optional offerings of general merchandise, products, and services from Program Manager, including Bank-approved ancillary prepaid or debit card products and services, and to use Applicant and/or Cardholder Information for purposes permitted by Applicable Law, Bank's privacy policy and the Cardholder Agreement. Program Manager shall notify Bank of its intent to make any offers specifically mentioning, involving, or referencing Bank or any financial products supported by Bank and shall obtain the prior written approval of Bank with respect to such offers, which approval shall not be unreasonably withheld.

(b) Subject to the rights and restrictions in the California Consumer Privacy Act of 2018 (CCPA), Bank may at all times make solicitations for goods and services to the general public, which may include one or more Applicants or Cardholders; provided that Bank does not (i) target such solicitations to specific Applicants and/or Cardholders, or (ii) use or permit a third party to use any list of Applicants and/or Cardholders in connection with such solicitations; and Bank shall not be obligated to redact the names of Applicants and/or Cardholders from marketing lists acquired from third parties *(e.g.,* magazine subscription lists) that Bank uses for solicitations. Subject to the restrictions on solicitations made to Applicants and/or Cardholders, as set forth in this Section 14(b), Bank and its Affiliates may at all times and without restriction: offer credit, debit, prepaid and other electronic payment services or sponsor other program managers who are offering credit, debit, prepaid or other electronic payment services. Bank and Program Manager agree that this Agreement is not intended to create an exclusive relationship of any type between Bank and Program Manager. Bank and Program Manager may each enter into similar arrangements with one or more third parties.

15. **Data Security**.

(a) Program Manager shall implement and maintain policies and procedures necessary to ensure the Program complies, and remains in compliance, with Gramm-Leach-Bliley Act, Interagency Guidelines Establishing Information Security Standards, PCI-DSS security standards and all other Applicable Law and Card Association rules pertaining to data security and retention or non-retention of personal or financial information, including ensuring that Program Manager and any service providers maintain a comprehensive written information security program which contains appropriate administrative, technical and physical safeguards to protect and ensure the security and confidentiality of Card transaction data and other Records and information relating to Cardholders and other individuals, protect against any anticipated threats or hazards to the security or integrity of such Records; and protect against unauthorized access to, or use of, such Records or information that could result in substantial harm or inconvenience to any such individuals; and properly dispose of consumer information to which Program Manager or any service provider may obtain access, applicable to the Program. In order to ensure the effectiveness of its information security program, each Program Manager shall have conducted at least annually an independent IT audit on those parts of its systems that process Cardholder Data (as defined by PCI-DSS) to the extent required by PCI DSS, which shall include at a minimum an internal vulnerability scan and an external penetration test and will provide a copy of the report to Bank.

(b) Program Manager will maintain data security, business continuity and contingency plans that meet or exceed Applicable Law, including the Card Association rules, and Bank standards. Program Manager will deliver a copy of its Data Security/Business Continuity and Contingency Plan to Bank and any proposed changes to such Data Security/Business Continuity and Contingency Plan whenever Program Manager proposes to make a material change thereto. If the Data Security/Business Continuity and Contingency Plan does not meet such requirements or if a Regulatory Authority requires changes to such plans, Program Manager agrees to promptly make such changes or meet such requirements upon written notice to Program Manager of such changes or requirements by Bank. Bank shall have the right to require changes to the Data Security/Business Continuity and Contingency Plan necessary to comply with this Section 15 (Data Security), including third-party certification or testing. If necessary, these shall be performed at the expense of Program Manager.

(c) To the extent that Program Manager is not PCI Compliant, and without limiting the generality of Section 15(a) above, Program Manager agrees to the following: Program Manager agrees to comply with privacy and security requirements under PCI-DSS (which are collectively referred to as the "PCI Requirements") and Applicable Law with regards to Program Manager's use, access, and storage of Cardholder Information.

(i) Program Manager shall protect the privacy of all Cardholder Information to at least the same extent that Bank must maintain that confidentiality under the PCI Requirements or Applicable Law. Without limiting the generality of the foregoing sentence, Program Manager shall not disclose any Cardholder Information to any third party except as required for Program Manager's performance under this Agreement, and Program Manager shall not use Cardholder Information except as required for Program Manager's performance under this Agreement.

(ii) Program Manager agrees to implement the safeguards as required by Applicable Law to prevent unauthorized use or disclosure of the Cardholder Information, and to maintain the integrity and confidentiality of any Cardholder Information in the possession of Program Manager as required in Applicable Law or this Agreement.

(iii) Program Manager agrees to report to Bank any unauthorized access to, use or disclosure of any Cardholder Information not provided for by this Agreement. Such report shall be made as soon as possible, but in no event later than forty-eight (48) hours following the date that Program Manager becomes aware of such unauthorized access, use or disclosure. Program Manager shall provide to Bank, each Card Association and their respective representatives Program Manager's assessment of the impact of such breach and the corrective measures proposed by Program Manager to remedy such breach. Program Manager shall disclose to Bank, as promptly as possible, any breach of the security of an individual's personal, unencrypted information, as set forth under Applicable Law. Program Manager shall take action(s) requested by Bank or a Card Association, if any, to mitigate such unauthorized disclosure.

(iv) Program Manager agrees to ensure that any Agent, including a subcontractor, to whom it provides Cardholder Information received from, or created or received by Program Manager on behalf of Bank, agrees to the same restrictions and conditions that apply through this Section 15 (Data Security) to Program Manager with respect to such information.

(v) Program Manager agrees to make its internal practices, books, and records, including policies, procedures and Cardholder Information, relating to the use and disclosure of Cardholder Information available during normal business hours to Bank, or at the request of Bank to the Card Association or their respective designees, in a time and manner designated by Bank or the Card Association for purposes of determining Bank's or Program Manager's compliance with the PCI Requirements. Bank may, at its discretion and upon reasonable notice, conduct an on-site security audit and review of Program Manager's security procedures and systems.

(vi) Without limiting any other provision of this Agreement, the Parties agree that this Section 15 (Data Security) may be amended from time to time upon notice to Program Manager as is necessary for the Parties to comply with the PCI Requirements, and Applicable Law as they relate to Program Manager's performance hereunder.

(vii) In the event of an inconsistency or conflict between any terms of this Agreement other than Section 15 and the terms of this Section 15 (Data Security), this Section 15 (Data Security) shall control any issues surrounding the PCI Requirements. Any such inconsistency or conflict shall be resolved in favor of a meaning that permits Bank to comply with the PCI Requirements, Card Association rules and Applicable Law.

(viii) Without limiting any other provision of this Agreement, if Program Manager is required to disclose Cardholder Information in response to legal process or a governmental authority, Program Manager shall notify Bank within two (2) Business Days and, upon request, cooperate with Bank in connection with obtaining a protective order, unless otherwise prohibited. Program Manager shall furnish only that

portion of the Cardholder Information, which it is legally required to disclose, and shall use commercially reasonable efforts to ensure that confidential treatment will be accorded such Cardholder Information.

(ix) Without limiting any other provision of this Agreement, Program Manager shall comply with its obligations under this Agreement and under any Applicable Law regarding the confidentiality, use, and disclosure of Cardholder Information.

(x) Without limiting any other provision of this Agreement, Program Manager will comply with the Gramm-Leach-Bliley Act, including providing, as may be required: (1) any required notifications to Cardholders in the event of unauthorized access to their non-public personal information; and (2) an annual third-party certification of system intrusion testing, and SOC 1 and SOC 2 reports.

16. **Cardholder Information**. Program Manager acknowledges and agrees that "Non Public Personal Information" and "Personally Identifiable Financial Information" (as defined in Sections 1016.3(p) and (q) respectively of the Consumer Financial Protection Bureau rules on Privacy of Consumer Information published at 12 CFR Chapter X) about Bank's customers and Cardholders (but excluding transaction data to the extent such information is not Non Public Personal Information and Personally Identifiable Financial Information) shall be considered as confidential and proprietary information of Bank, and shall not be disclosed to or shared with any third party without prior written consent of Bank or the Cardholder, except as necessary or useful for Program Manager to exercise its rights or perform its obligations hereunder and in compliance with Section 20 (Confidentiality). Bank hereby grants Program Manager a non-exclusive, transferrable, worldwide right and license to use Cardholder Information to exercise its rights and perform its obligations under this Agreement. Except as provided in, and subject to the limitations stated herein, Program Manager will not compile, use, sell or otherwise distribute any lists of Bank's customers/Cardholders nor use the names, account numbers or any other Non Public Personal Information and Personally Identifiable Financial Information about customers or Cardholders to compile, use, sell or distribute lists or data for use by Program Manager, its Agents, subsidiaries or affiliates, or by any third parties without the prior written consent of Bank, which may not unreasonably withheld or delayed. Each Party will instruct its relevant employees, agents and contractors as to the confidentiality of the Non Public Personal Information and Personally Identifiable Financial Information and will not disclose any such Non Public Personal Information or Personally Identifiable Financial Information to any third party or entity, except as necessary or useful to exercise its rights or perform its obligations hereunder and in compliance with Section 20 (Confidentiality). Each Party also agrees that any dissemination of the aforementioned confidential Non Public Information or Personally Identifiable Financial Information within its own business entity and to agents and contractors shall be restricted to "a need to know basis" for the purpose of performance hereunder. Subject to Section 19(d)(v)-(vi), all obligations under this Section 16 and undertakings relating to Non Public Personal Information and Personally Identifiable Financial Information shall survive the expiration or termination of this Agreement for whatever reason.

All Aggregated De-identified Data will be owned by Program Manager, and Bank acknowledges that Program Manager may use, store, analyze and disclose the Aggregated De-identified Data (i) for its own internal, statistical and trend analysis, (ii) to develop and improve its products and services, and (iii) to create and distribute data, reports and other materials regarding access and use of the Program. For clarity, nothing in this Section 16 gives Program Manager the right to publicly identify Bank as the source of any Aggregated De-identified Data without Bank's prior written approval. "Aggregated De-identified Data" means Cardholder Information aggregated by Program Manager with other data such that the resulting data does not contain any information identifiable or attributable to Bank or any natural person.

Bank acknowledges that Program Manager owns all Card-related transaction data that does not constitute Cardholder Data (as defined by PCI-DSS), including both information that is: (i) provided or made available by Program Manager under this Agreement, or (ii) generated through the Program which is derived from such data. For clarity, nothing will affect either Party's rights with respect to information or data already in such Party's possession or control or developed or collected by such Party outside the scope of this Agreement.

17. **Indemnification**.

(a) Bank agrees to indemnify and hold harmless Program Manager and its Affiliates, and the officers, directors, members, employees, representatives, shareholders, agents and attorneys of such entities (the "Program Manager Indemnified Parties") from and against any and all third party claims, actions, liability, judgments, damages, costs and expenses, including reasonable attorneys' fees ("Losses"), that may arise from: (i) the gross negligence or willful misconduct of Bank or its agents or representatives (other than Program Manager or its Agents or assigns) in connection with Bank's performance of its obligations under this Agreement, (ii) material breaches of any of Bank's obligations or undertakings or representations or warranties under the Program Documents (other than any breach resulting from Program Manager's performance of Program Manager's obligations under the Program Documents) by Bank or its agents or representatives (other than Program Manager or its Agents or assigns), or (iii) violation by Bank or its agents or representatives (other than Program Manager or its Agents or assigns) of any Applicable Law.

(b) Program Manager agrees to indemnify, defend and hold harmless Bank and its Affiliates, and the officers, directors, members, employees, representatives, shareholders, agents and attorneys of such entities (the "Bank Indemnified Parties") from and against any and all Losses that may arise from: (i) the negligence or willful misconduct of Program Manager, or its Affiliates, Agents or representatives (other than Bank or its agents or assigns (excluding Program Manager)), in connection with Program Manager's performance of its obligations under this Agreement, (ii) breach of any of Program Manager's obligations or undertakings or representations or warranties under the Program Documents by Program Manager or its Affiliates, Agents or representatives (other than Bank or its agents or assigns (excluding Program Manager)), including any failure to perform any obligations of Bank which Program Manager has undertaken on behalf of Bank pursuant to the Program Documents, (iii) violation by Program Manager, its Affiliates or its Agents or representatives (other than Bank or its agents or assigns (excluding Program Manager)) of any Applicable Law; (iv) any fraudulent activity related to an Account, including unauthorized use of the Account or Card; (iv) any inquiry specifically relating to Program Manager or its Agents or the Program by any law enforcement, regulatory, or administrative agency, whether local, state, or federal, or self-regulatory, including but not limited to a civil investigative demand, subpoena, or any other formal or informal request for information or documents; or (v) any fines or assessments by a Regulatory Authority or Card Association based on the actions or omissions of Program Manager.

(c) Program Manager Indemnified Parties and Bank Indemnified Parties are sometimes referred to herein as the "Indemnified Parties", and Program Manager or Bank, as indemnitor hereunder, is sometimes referred to herein as the "Indemnifying Party". Any Indemnified Party seeking indemnification hereunder shall promptly notify the Indemnifying Party, in writing, of any notice of the assertion by any third party of any claim or of the commencement by any third party of any legal or regulatory proceeding, arbitration or action, or if the Indemnified Party determines the existence of any such claim or the commencement by any third party of any such legal or regulatory proceeding, arbitration or action, whether or not the same shall have been asserted or initiated, in any case with respect to which the Indemnifying Party is or may be obligated to provide indemnification (an "Indemnifiable Claim"), specifying in reasonable detail the nature of the Loss, and, if known, the amount, or an estimate of the amount, of the Loss, provided that failure to promptly give such notice shall only limit the liability of the Indemnifying Party to the extent of the actual prejudice, if any, suffered by such Indemnifying Party as a result of such failure. The Indemnified Party shall provide to the Indemnifying Party as promptly as practicable thereafter information and documentation reasonably requested by such Indemnifying Party to defend against the claim asserted.

(d) The Indemnifying Party shall have thirty (30) days after receipt of any notification of an Indemnifiable Claim (a "Claim Notice") to undertake, conduct and control, through counsel of its own choosing, and at its own expense, the settlement or defense thereof and the Indemnified Party shall cooperate with the Indemnifying Party in connection therewith if such cooperation is so requested and the request is reasonable; provided that the Indemnifying Party shall hold the Indemnified Party harmless from all its out-of-pocket expenses, including reasonable attorneys' fees incurred in connection with the Indemnified Party's cooperation. If the Indemnifying Party assumes responsibility for the settlement or defense of any such claim, (i) the Indemnifying Party shall permit the Indemnified Party to participate in such settlement or defense through counsel chosen by the Indemnified Party (subject to the consent of the Indemnifying Party, which consent shall not be unreasonably withheld); provided that, other than in the event of a conflict of interest requiring the retention of separate counsel, the fees and expenses of such counsel shall not be borne by the Indemnifying Party; and (ii) the Indemnifying Party shall not settle any Indemnifiable Claim without the Indemnified Party's consent, which involves anything other than the payment of money, including any admission by the Indemnified Party. So long as the Indemnifying Party is vigorously contesting any such Indemnifiable Claim in good faith, the Indemnified Party shall not pay or settle such claim without the Indemnifying Party's consent.

(e) If the Indemnifying Party does not notify the Indemnified Party within thirty (30) days after receipt of the Claim Notice that it elects to undertake the defense of the Indemnifiable Claim described therein, or if the Indemnifying Party fails to contest vigorously any such Indemnifiable Claim, the Indemnified Party shall have the right, upon notice to the Indemnifying Party, to contest, settle or compromise the Indemnifiable Claim in the exercise of its reasonable discretion; provided that the Indemnified Party shall notify the Indemnifying Party of any compromise or settlement of any such Indemnifiable Claim. No action taken by the Indemnified Party pursuant to this Section 17(e) shall deprive the Indemnified Party of its rights to indemnification pursuant to this Section 17 (Indemnification).

18. **Limitation of Liability**.

(a) No Special Damages. No Party shall be liable to any other Party for any special, indirect, incidental, consequential, punitive or exemplary damages, including, but not limited to, lost profits, even if such Party has knowledge of the possibility of such damages; provided, however, that the limitations set forth in this Section 18 shall not apply to or in any way limit a claim that arises out of a Party's gross negligence, willful misconduct or fraud and shall not apply to or in any way limit the obligations of a Party to indemnify another Party for third party claims which are otherwise covered by the indemnity obligations under this Agreement.

(b) Subject to Section 18(a), the maximum aggregate liability of Bank to Program Manager for all claims arising out of or relating to this Agreement, regardless of the form of any such claim, shall not exceed [**]; provided, however, Bank shall have no liability under this Agreement for any claim or causes of action that may arise from a set of facts or circumstances that gives rise to liability to Bank under the Bank Services Agreement. For the avoidance of doubt, Program Manager may not recover costs or liability against Bank based on a common set of facts or circumstances under both this Agreement and the Bank Services Agreement. Notwithstanding anything to the contrary, Bank's maximum aggregate liability for all claims arising out of or relating to this Agreement and the Bank Services Agreement shall not exceed [**].

(c) Disclaimers of Warranties. Except for the express warranties contained in this Agreement, the Parties specifically disclaim all warranties of any kind, express or implied, arising out of or related to this Agreement, including without limitation, any warranty of marketability, fitness for a particular purpose or non-infringement, each of which is hereby excluded by agreement of the Parties.

19. **Term and Termination**.

(a) This Agreement shall take effect on the Effective Date and continue until the second (2nd) anniversary of the Effective Date (the "Initial Term") and shall renew automatically for successive additional terms of one (1) year each (each, a "Renewal Term"), unless Program Manager notifies Bank of non-renewal at least one hundred and eighty (180) days prior to the end of the Initial Term or any Renewal Term or Bank notifies Program Manager of non-renewal at least one hundred and eighty (180) days prior to the end of the Initial Term or any Renewal Term (together, the "Term").

(b) Termination For Cause.

(i) Except as otherwise provided in this Agreement, if either Party materially breaches a material term of this Agreement, the non-breaching Party may terminate this Agreement by giving notice, as provided in Section 38 (Notice), to the breaching Party. This notice will: (1) describe the material breach; and (2) state the Party's intention to terminate this Agreement. If the breaching Party does not cure or substantially cure its material breach within fifteen (15) Business Days (or a shorter period if required by Applicable Law) after receipt of notice as described in this Section 19 (the "Cure Period"), then the non-breaching Party may immediately terminate this Agreement by giving notice at any time following the end of such Cure Period; provided, however, that if such breach by Program Manager is not capable of being cured or substantially cured within such fifteen (15) Business Day period, then the time period for curing or substantially curing such breach may be extended by Bank in its sole discretion so long as Program Manager continues to diligently pursue such cure using commercially reasonable

efforts. Neither Party will be held in breach for failure to perform under this Agreement if such failure is due to compliance with Applicable Law.

(ii) Either Party may terminate this Agreement on the effective date of any change in the legal or regulatory requirements applicable to the Program, or in the Card Association rules applicable to the Program, that: (1) has a substantial negative impact on the financial burdens or rewards of the terminating Party with respect to the Program, which the non-terminating Party is unwilling or unable to accommodate; or (2) would render performance of a material obligation of the terminating Party hereunder a violation of the Card Association rules, or illegal or otherwise subject to legal challenge, unless performance of such material obligation is waived by the non-terminating Party. The terminating Party will notify the other Party of such change within ten (10) Business Days of becoming aware of such change.

(iii) Either Party may terminate this Agreement upon written notice to the other Party if the other Party becomes Insolvent or bankrupt or becomes subject to a receivership proceeding.

(iv) Either Party may terminate this Agreement upon fifteen (15) Business Days' advance written notice to the other Party of such intent to terminate if, at any time during the Term of this Agreement, the other party is conducting activities that the terminating Party reasonably determines are materially harmful to relationships with its federal or state supervisory or law enforcement agencies; provided that the terminating Party promptly notifies the other Party of such activity, provides evidence of such activity, and the other Party does not cure such activity to the terminating Party's sole and reasonable satisfaction within fifteen (15) Business Days of notification to the terminating Party.

(v) Either Party may terminate this Agreement as permitted by Sections 27 (Agreement Subject to Applicable Laws) or 43 (Force Majeure).

(vi) Either Party may terminate this Agreement in the event of an act of fraud or willful misconduct of the other Party.

(vii) Bank may immediately suspend any services under this Agreement in the event of: (1) any failure by Program Manager to remain PCI Compliant as provided in this Agreement, to the extent applicable; or (2) any failure by Program Manager to remit to Bank the Settlement Amount or maintain account balances in accordance with Sections 29 (Program Manager Reserve Account) or 30 (Program Manager Revenue Account) of this Agreement, subject to applicable cure periods.

(viii) Bank may terminate this Agreement without liability if Program Manager materially breaches this Agreement on three (3) or more separate occasions within twelve (12) consecutive months.

(ix) Either Party may terminate this Agreement: (1) if the other Party materially violates Applicable Law in connection with its performance of its obligations under this Agreement; (2) upon direction from any Regulatory Authority or Card Association to cease or materially limit performance of the rights or obligations under this Agreement or the inability to obtain any required regulatory approvals; or (3) in the event any financial statement, representation, warranty, statement or certificate furnished to it by the other Party in connection with or arising out of this Agreement is adverse to the terminating Party and is untrue, misleading or omits material information, as of the date made or delivered.

(c) Reserved.

(d) This Agreement will terminate upon the termination of the Bank Services Agreement.

(e) Effect of Termination.

(i) The termination of this Agreement shall not terminate, affect, or impair any rights, obligations or liabilities of any Party that accrue prior to termination or with respect to the Program occurring or arising prior to termination, or which, under this Agreement, continue after termination.

(ii) Subject to Section 20(c), following termination or expiration of this Agreement, each Party will: (1) return all property belonging to the other Party which is in its possession or control at the time of termination or expiration; and (2) discontinue using the other Party's trademarks.

(iii) If Program Manager terminates this Agreement for any reason other than insolvency, it will be responsible for maintaining cash funding at Bank equivalent to thirty (30) days of expected payments to Bank and the Card Association, including Chargebacks and losses.

(iv) In the event of termination pursuant to Section 19 (Term and Termination), Bank may cease issuing Cards to and establishing Accounts for Cardholders or Applicants under this Agreement, subject to the terms set forth in this Section 19(e)(iv). Upon the expiration or termination of this Agreement pursuant to this Section 19 (Term and Termination) and provided Program Manager is not in default of any provision of this Agreement, Program Manager shall have the right to cause Bank to transfer all of its right, title and interest in and to all of the Accounts held by Bank under the Program to a successor sponsor bank ("Successor Bank") to assume all of Bank's obligations under this Agreement, subject to satisfactory and good faith negotiation of the terms of an assumption agreement by and between Successor Bank and Bank. Upon agreement on the terms of such assumption agreement Bank will allow such assumption and will execute any documents necessary to effect the assumption. If this Agreement is terminated pursuant to Section 19(a) or if Program Manager terminates this Agreement pursuant to Section 19(b), for a period of up to one hundred eighty (180) days from the date of the end of the Initial Term or such Renewal Term ("Wind Down Period"), Bank shall continue to sponsor the Program on the terms set forth in this Agreement and will cooperate with and provide necessary services to Program Manager to facilitate the orderly transfer of the Accounts to such Successor Bank. Each Party acknowledges that the main goals of the Wind Down Period are (in order or priority) (i) to benefit the Cardholders by minimizing any possible

burdens or confusion and (ii) to protect and enhance the names and reputations of the Parties, both of whom have invested their names and reputations in the Programs, the Programs and Cards issued hereunder. Subject to the terms herein and provided Program Manager is not in default of any provision of this Agreement (or has otherwise cured any default of this Agreement), upon the expiration or termination of this Agreement for any reason, the Parties agree to cooperate in good faith to wind down or transition each Program in a commercially reasonable way as soon as reasonably possible to provide for a smooth and orderly transition or wind-down, unless otherwise prohibited by Applicable Law or any Regulatory Authority. Such cooperation will include continued acceptance of Cards presented for payment until the conclusion of the Wind Down Period or successful transfer of Accounts to Successor Bank. Notwithstanding anything to the contrary, Bank is excused from providing transition services contemplated herein if it determines after reasonable investigation that the continuing operation of the Program or the provisioning of transition services or any services incidental thereof would violate Applicable Law, Card Association rules or any guidance provided by its Regulatory Authority. Program Manager shall be responsible for all costs, including reasonable attorneys' fees, associated with any transition contemplated herein, unless the Agreement is terminated by Program Manager for cause pursuant to Section 19(b)(i), (vi).

(v) As soon as reasonably practicable after expiration of this Agreement or receipt of delivery of a termination notice with respect to this Agreement or one or more Programs and subject to Section 19(e)(iv), Program Manager shall provide to Bank in writing a proposed transition or wind-down plan, detailing (i) whether the affected Program(s) are to be wound down or transferred to a Successor Bank; and (ii) a proposed timeline, which shall designate a date as of which the affected Programs shall be wound down or transferred from Bank to a Successor Bank. Bank and Program Manager shall meet promptly thereafter to review such proposed plan and to determine a mutually acceptable transition or wind-down plan. The wind-down or transition of any affected Program(s) shall occur as soon as reasonably possible and in no event later than one hundred eighty (180) days after expiration or termination of this Agreement; provided, however, that such time period may extended by mutual written agreement of the Parties.

(vi) Provisions of this Agreement that, by their nature, should survive termination of this Agreement shall survive termination (including, but not limited to, Sections 1 (Definitions), 10 (Fraud and Risk Management), 11 (Applicable Law), 13 (Representations, Warranties and Covenants), 14 (Other Relationships with Cardholders), 16 (Cardholder Information), 17 (Indemnification), 18 (Limitation of Liability), 19 (Term and Termination) , 20 (Confidentiality), 21 (Proprietary Materials), 33 (Relationship of Parties), 34 (Governing Law; Waiver of Jury Trial; Dispute Resolution and Arbitration), 35 (Severability), 36 (Assignment), 37 (Third Party Beneficiaries), 38 (Notices), 39 (Amendment and Waiver), 40 (Entire Agreement), 41 (Conflicts), 42 (Counterparts), 43 (Interpretation) and 45 (Headings)).

20. **Confidentiality**.

(a) Each Party agrees that Confidential Information of the other Party shall be used by such Party solely in the performance of its obligations and exercise of its rights pursuant to the Program Documents. Except as required by Applicable Law, a Regulatory Authority or legal process, neither Party (the "Restricted Party") shall disclose Confidential Information of the other Party (the "Disclosing Party") to third parties; provided, however, that the Restricted Party may disclose Confidential Information of the Disclosing Party (i) to the Restricted Party's Affiliates, agents, representatives or subcontractors for the sole purpose of fulfilling the Restricted Party's obligations under this Agreement (as long as the Restricted Party exercises best efforts to prohibit any further disclosure by its Affiliates, agents, representatives or subcontractors), (ii) to the Restricted Party's auditors, accountants and other professional advisors, and (iii) to any other third party as mutually agreed by the Parties.

(b) A Party's Confidential Information shall not include information that: (i) is or becomes generally available to the public, (ii) has become publicly known, without fault on the part of the Restricted Party, (iii) is independently developed or arrived at by the Restricted Party without use of or reference to Confidential Information, (iv) was otherwise known by, or available to, the Restricted Party prior to entering into this Agreement, or (v) becomes available to the Restricted Party on a non-confidential basis from a third-party , who is not in breach of any obligation of confidentiality with the non-Disclosing Party or otherwise prohibited from transmitting the information to the Restricted Party.

(c) Upon written request or upon the termination or expiration of this Agreement, each Party shall return to the other Party or destroy all Confidential Information of the other Party in its possession or control that is in written form, including by way of example, but not limited to, reports, plans, and manuals, and delete any digitally or optically stored versions of Confidential Information of the other Party; provided, however, that each Party may maintain in its possession all such Confidential Information required to be maintained under Applicable Law or internal archival or document retention policies relating to the retention of records for the period of time required thereunder, subject to the confidentiality obligations set forth in this Agreement.

(d) Each Party shall require its subcontractors having access to Confidential Information to agree in writing to be bound by the provisions of this Section 20 prior to disclosure of any Confidential Information to such subcontractors. Such Party shall keep and maintain such protective agreements and shall promptly provide the other Party with copies thereof upon request. Such permissible disclosure shall not relieve the Disclosing Party of liability for such disclosure.

(e) In the event that a Restricted Party is requested or required, by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process, to disclose any Confidential Information of the other Party, the Restricted Party will provide the other Party with prompt notice of such request(s) so that the other Party may seek an appropriate protective order or other appropriate remedy. In the event that the other Party does not seek such a protective order or other remedy, or such protective order or other remedy is not obtained, the Restricted Party may furnish that portion (and only that portion) of the Confidential Information of the other Party which the Restricted Party is legally compelled to disclose and will exercise such efforts to obtain reasonable assurance that confidential treatment will be accorded any Confidential Information of the other Party so furnished as the Restricted Party would exercise in assuring the confidentiality of any of its own Confidential Information.

(f) Nothing in this Section 20 shall restrict or prohibit Program Manager from using Cardholder Information in any manner permitted by Section 14 (Other Relationships with Cardholders).

21. **Proprietary Materials**.

(a) Bank Marks. Bank hereby grants to Program Manager a non-exclusive, non-transferable, revocable limited license to use and reproduce the name, logo and specified trademarks of Bank ("Bank Marks"), which Bank has made available to Program Manager, solely in connection with the Card Program Materials or as required under the Card Association rules, provided that any such use shall require the prior written approval of Bank, such approval not to be unreasonably withheld or delayed and consistent with any Bank usage guidelines. If such approval is granted, Program Manager may utilize such Bank Marks subject to Bank's prior approval of such materials. This use terminates upon termination of this Agreement and any agreed upon Wind Down Period (if applicable).

(b) Program Manager Marks. Program Manager grants to Bank a non-exclusive, non-transferable, revocable limited license to use and reproduce the name, logo and specified trademarks of Program Manager ("Program Manager Marks"), which Program Manager has made available to Bank, solely in connection with the Program as required under the Card Association rules provided that any such use shall require the prior written approval of Program Manager, such approval not to be unreasonably withheld or delayed and consistent with any Program Manager usage guidelines. If such approval is granted, Bank may utilize such Program Manager Marks subject to Program Manager's prior approval of such materials. This use terminates upon termination of this Agreement and any agreed upon Wind Down Period (if applicable).

(c) Program Manager Intellectual Property. Bank acknowledges and agrees that Program Manager shall retain all right, title, and interest in and to all Intellectual Property of Program Manager that is developed, established or otherwise created by Program Manager in connection with the Program. Nothing in this Agreement shall be construed as granting Bank a license to use in any way the Intellectual Property of Program Manager, except as provided in Section 21(b) or to the extent Program Manager may make use of its Intellectual Property in connection with the services to be provided hereunder. Bank shall not take any action that interferes with the Intellectual Property of Program Manager or attempt to copyright or patent any part of the Intellectual Property of Program Manager or attempt to register any trademark, service mark, trade name, or company name which is identical or confusingly similar to Program Manager Marks.

22. **Expenses**.

(a) General. Except as otherwise provided in the Program Documents or this Agreement, the Parties shall pay their own expenses (including, without limitation, the fees and expenses of their own agents, representatives, counsel, and accountants) incidental to the preparation and performance of this Agreement. Each Party shall further be responsible for payment of any federal, state, or local taxes or assessments associated with the performance of its obligations under this Agreement and for compliance with all filing, registration and other requirements with regard thereto. Program Manager shall be responsible for any cost incurred from the Card Association related to the Program including any cost of registration of any subcontractors of Program Manager as third-party agents. Except as otherwise provided in this Agreement, Program Manager shall be responsible for any cost, fee, fine or audit charged directly to Bank by any Regulatory Authority or Card Association due to the Program (other than any cost, fee, fine or audit charged directly to Bank due to Bank's gross negligence, willful misconduct or breach of this Agreement or due to any act or omission of Bank or any acts or omission of any contractor, agent or representative retained by Bank (other than Program Manager and its Agents)).

(b) Allocation of Costs for Program. Except as otherwise provided in this Agreement, as between the Parties, any and all costs and expenses related to Program Manager Card Services, any other legal expenses, fees or fines related to Program Manager's activities under the Program and any fees specified in Exhibit B shall be paid by Program Manager.

(c) Costs and Expenses Paid by Bank. Except as otherwise provided in this Agreement, Bank shall be solely responsible for all fines, penalties and other amounts assessed by any Regulatory Authority or Card Association due to any act or omission of Bank or any acts or omission of any contractor, agent or representative retained by Bank (other than Program Manager and its Agents); provided, it is understood that approval, acquiescence or failure by Bank or its agents to reject any proposal, action, or activity by Program Manager shall not relieve Program Manager of any obligation under this Agreement.

(d) Costs and Expenses Paid by Program Manager. In addition to any expenses specifically set forth elsewhere in this Agreement, Program Manager shall be solely responsible for the following: (i) all expenses associated with Cardholder or third party fraud (other than third parties retained by Bank, excluding Program Manager and its Agents), (ii) all fines, penalties, reimbursements, and other amounts assessed by any Regulatory Authority or Card Association due to Program Manager's actions or omissions or the actions or omissions of any third party retained by Program Manager, (iii) all third-party expenses associated with completing required due diligence and annual reviews on Program Manager or its service providers from third party outsourced vendor relationships contemplated in this Agreement, and (iv) any and all losses incurred by Bank in connection with Chargebacks, Cardholder Fund deficiencies or other Cardholder refunds.

(e) Any costs resulting from Program Manager's actions or omissions that cause an error or omission by Bank.

23. **Subcontractors**.

(a) Program Manager may from time to time retain the services of one or more Agents to perform some of the services and obligations Program Manager has agreed to perform pursuant to this Agreement; provided, however, it must first obtain Bank's written approval in the event such subcontractor is performing a Critical Service ("Critical Service Provider"). "Critical Services" shall mean services that (i) grants, permits or require a third party to access, store, transmit or process Cardholder Information or Bank's Confidential Information in connection with a Program, (ii) involve significant bank functions or other activities that could cause Bank to face significant risk if the third party fails to meet expectations, (iii) could have significant applicant, consumer or Cardholder impacts, (iv) require significant Bank investment in resources to implement the third-party relationship and manage

the risk, (v) could have a material impact on Bank operations if the Bank has to find an alternate third party or if the outsourced activity has to be brought in-house; or (vi) any other service determined by Bank to be critical in its reasonable discretion.

(b) Program Manager shall be responsible for obtaining a written agreement with all Agents for the rendering of such services and shall be responsible for all obligations with each Agent. Such written agreements shall be available to Bank for review upon its request. Bank may, in its sole discretion, require any written agreement with a Critical Service Provider to be amended or modified to comply with Bank's policies and procedures, Applicable Law, Card Association rules, payment network rules or any instruction of Regulatory Authority. Bank may require Program Manager to terminate or replace any Agent in the event Bank or a Regulatory Authority determines that such Agent's performance violates Applicable Law or the terms of this Agreement. Program Manager understands that it must inform Bank in writing regarding the use of any Critical Service Provider so that Bank may complete a due diligence review of such Critical Service Provider in compliance with Bank's policies and procedures and Applicable Law, including, but not limited to, compliance with FFIEC guidance on Vendor and Third Party Management. Program Manager shall be responsible for all costs and expenses, including reasonable attorneys' fees, incurred by Bank in connection with diligence of and approval of any Critical Service Provider.

(c) Program Manager shall remain liable for any services performed by any and all Agents. Program Manager shall include provisions in any agreement with a Critical Service Provider requiring the Critical Service Provider to allow Bank and any Regulatory Authority having jurisdiction over Bank to audit, inspect and review their facilities, personnel, files and records insofar as they relate to Cards or the Program. Any audit, inspection or review as provided hereunder shall be on terms reasonably similar to the audit terms set forth in Section 26. Program Manager shall also use commercially reasonable efforts to include provisions in any new or existing agreement with any other Critical Service Provider requiring the Critical Service Provider to allow Bank and any Regulatory Authority having jurisdiction over Bank to audit, inspect and review their facilities, personnel, files and records insofar as they relate to the Cards or the Program.

24. **Relationship Managers**. The Parties shall each appoint, no later than the Effective Date, a relationship manager with responsibilities for the day-to-day management and administration of this Agreement and to work closely with the relationship manager of the other Party regarding Agreement-related issues. Each Party shall be entitled to remove its relationship manager and appoint a substitute relationship manager at any time during the Term of this Agreement upon written notice to the other Party.

25. **Examination**. Each Party agrees to submit to any examination that may be required by a Regulatory Authority having jurisdiction over Bank and to otherwise provide reasonable cooperation to the other Party in responding to such Regulatory Authorities' inquiries and requests relating to the Program.

26. **Audit/Inspection**.

(a) Each Party shall allow the other to audit and/or inspect its books and records relating to the Program during regular business hours and upon reasonable prior notice. Each Party, upon reasonable prior notice from the other Party, agrees to submit to an audit and/or inspection of its books, records, accounts, personnel, and facilities relevant to the Program, from time to time, during regular business hours upon reasonable prior notice. Except as otherwise set forth in this Agreement, all expenses of the audit or inspection shall be borne by the Party conducting the audit or inspection. Program Manager shall store all Records related to the Accounts, and the Program and shall make such Records available during any audit or inspection by Bank or its designee for such period as required by Applicable Law. Without limiting any other provision of this Agreement, reasonable audit expenses specifically related to the Card Association in connection with the Program or Program Manager's compliance with Applicable Law shall be borne by Program Manager.

(b) Notwithstanding anything to the contrary, within one hundred eighty (180) days of the Effective Date, Program Manager will submit to and complete a compliance audit of its operations to ensure compliance with consumer, privacy, cybersecurity and financial requirements and shall submit to and complete a financial reporting audit (collectively, "Compliance Audit"). The Compliance Audit shall be conducted by third party auditor mutually agreed to by Program Manager and Bank, and shall be conducted in compliance with all Applicable Laws, including, any laws applicable to the Program, the Program Manager Services or this Agreement, including, but not limited to, Sarbanes-Oxley Act. Program Manager shall furnish within a reasonable time copies of SSAE-16 reports upon request from third party auditor in connection with the Compliance Audit. Program Manager shall be responsible for all expenses related to Compliance Audit.

(c) During the Term of this Agreement, Program Manager will provide Bank with unaudited quarterly financial statements within forty-five (45) days following the end of each calendar quarter, which shall include, at a minimum, a balance sheet, income statement and cash flow statement, debt covenant calculations (if applicable), amount of any guaranteed loans and current loss rates on guaranteed loans (if applicable) in such detail reasonably acceptable to Bank and certified by Program Manager's Treasurer or Chief Financial Officer, and audited annual financial statements within one hundred eighty (180) days after the end of Program Manager's fiscal year, which shall include, at a minimum, a balance sheet, income statement, and cash flow statement, debt covenant calculations (if applicable), amount of any guaranteed loans and current loss rates on guaranteed loans (if applicable) and notes to financial statements in such detail customary for such financial statements and prepared by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied.

(d) At least annually, Program Manager will have a certified independent public accounting firm or another independent third party reasonably acceptable to Bank: (i)(a) conduct a review or assessment and provide a full attestation, review or report under SSAE 16 (Statement on Standards for Attestation Engagements No. 16) SOC (Service Organization Control) 1 Type II or SOC 2 Type II; (b) a replacement for one of the foregoing approved by Bank; or (c) other third party reviews and reports reasonably acceptable to Bank, in each case, of all key systems and operational controls used in connection with any Confidential Information or Depositor Information; and (ii) conduct and provide a full report of an independent network and application penetration test. Each of these attestations, reviews, reports and tests will be for a scope approved by Bank in its reasonable discretion. Program Manager will provide all findings from these attestations, reviews and tests to Bank upon receipt from the third party. Program Manager will (x) implement all material recommendations set forth in such attestations, reviews, reports and any other reasonable recommendations made by Bank

arising out of Bank's analysis of such reviews and (y) upon Bank's request, provide Bank with the status of the implementation. If Program Manager fails to conduct the required reviews and assessments and provide the required reports set forth in clauses (i) and (ii) above, as determined by Bank, Bank may perform its own reviews and assessments, and Program Manager will promptly reimburse Program Manager for all reasonable costs associated with its efforts.

27. **Agreement Subject to Applicable Laws**. Subject to Section 19 (Term and Termination), if (a) either Party has been advised by legal counsel of a change in Applicable Laws or any judicial decision of a court having jurisdiction over such Party or any interpretation of a Regulatory Authority that, in the view of such legal counsel, would have a materially adverse effect on the Program, the rights or obligations of such Party under this Agreement or the financial condition of such Party; (b) either Party shall receive a lawful written request of any Regulatory Authority having jurisdiction over such Party, including any letter or directive of any kind from any such Regulatory Authority, that prohibits or restricts such Party from carrying out its obligations under this Agreement; (c) either Party has been advised by legal counsel that there is a material risk that such Party's or the other Party's continued performance under this Agreement would violate Applicable Laws; (d) any Regulatory Authority shall have determined and notified either Party that the arrangement between the Parties contemplated by the Program Documents constitutes an unsafe or unsound banking practice or is in violation of Applicable Law; or (e) a Regulatory Authority has commenced an investigation or action against a Party which the other Party, in its reasonable judgment, determines that it threatens such Party's ability to perform its obligations under the Program Documents, then, in each case, the Parties shall meet and consider in good faith any modifications, changes or additions to the Program or the Program Documents that may be necessary to eliminate such result. Notwithstanding any other provision of the Program Documents, if the Parties are unable to reach agreement regarding modifications, changes or additions to the Program or the Program Documents within fifteen (15) Business Days after the Parties initially meet, either Party may terminate this Agreement upon thirty (30) days prior written notice to the other Party and without payment of a termination fee or other penalty. A Party shall be able to suspend performance of its obligations under this Agreement, or require the other Party to suspend its performance of its obligations under this Agreement, if (i) any event described in clause (b) above occurs and (ii) such Party reasonably determines that continued performance hereunder may result in a fine, penalty or other sanction being imposed by the applicable Regulatory Authority, or in material civil liability, unless with regards to civil liability, the other Party agrees to indemnify the Party. For the avoidance of doubt, nothing in this Section 27 shall obligate a Party to disclose, share, or discuss any information to the extent prohibited by Applicable Law or a Regulatory Authority.

28. **Reserved.**

29. **Program Manager Reserve Account**. Prior to the Effective Date of this Agreement, Program Manager shall establish a non-interest bearing deposit account (the "Program Manager Reserve Account") at Bank which fund transfers may be initiated by Bank. Program Manager Reserve Account shall be a segregated deposit account that shall hold only the funds to be provided by Program Manager to Bank, whether as collateral or as funds owed in connection with this Agreement. At all times, it is Program Manager's responsibility to maintain funds in Program Manager Reserve Account at least equal to the amount set forth in Schedule B of the Bank Issuing Agreement, incorporated herein by reference (the "Reserve Balance"). For the avoidance of doubt the Reserve Balance is synonymous to the Reserve Amount in the Bank Services Agreement.

(a) Security Interest. To secure Program Manager's obligations under the Program Documents, Program Manager hereby grants Bank a first priority security interest in Program Manager Reserve Account and the funds therein or proceeds thereof, and agrees that Bank has control of Program Manager Reserve Account for purposes of the Uniform Commercial Code, Article 9-314. Program Manager further agrees to take such steps as Bank may reasonably require to perfect or protect such first priority security interest. Bank shall have all of the rights and remedies of a secured party under Applicable Laws with respect to Program Manager Reserve Account and the funds therein or proceeds thereof; and shall be entitled to exercise those rights and remedies in its discretion. Program Manager agrees that it will maintain the lien against Program Manager Reserve Account in favor of Bank and agrees that it will not grant any other party an interest in Program Manager Reserve Account.

(b) Program Manager Reserve Account can be applied by Bank to cover any requirements under this Agreement.

(c) Termination of Program Manager Reserve Account. Bank shall release any funds remaining in Program Manager Reserve Account within one hundred and twenty (120) days after the latest to occur of: (i) expiration or termination of this Agreement; and (ii) the date when obligations of Program Manager under the Program Documents have been satisfied in full by Program Manager; however, Bank shall release funds from Program Manager Reserve Account no sooner than the expiration or termination of all Chargeback rights.

30. **Program Manager Revenue Account**. Prior to the Effective Date of this Agreement, Program Manager shall establish a deposit account (the "Program Manager Revenue Account") with a financial institution which fund transfers may be initiated by Bank. Bank shall transfer all amounts as required by Section 9 (Fees) to Program Manager Revenue Account from time to time. Program Manager shall provide Bank with thirty (30) days' notice prior to changing or transferring to another financial institution Program Manager Revenue Account.

31. **Insurance**. Program Manager shall procure, pay for and maintain the minimum insurance coverage set forth below for the entire term of the Agreement. All insurance coverage is subject to the approval of Bank and shall be issued by a fiscally sound insurance carrier which maintains an A.M. Best Rating of A- VII or better. The General Liability policy shall name Bank as additional insured on the General Liability policy:

(a) Workers' Compensation insurance providing coverage pursuant to statutory requirements.

(b) Commercial General Liability insurance with Completed Product and Operations covering bodily injury, property damage, and including contractual liability coverage with a combined limit of [**] per occurrence and [**] general aggregate. The Commercial General Liability insurance policy shall name Bank as additional insured but solely as it relates to insurable losses and expenses that result from Program Manager's activities in the servicing of the Program. Such policy shall contain a waiver of subrogation in favor of Bank.

(c) Commercial Umbrella Liability insurance with per occurrence and aggregate limits of [**] with the liability insurance required under clauses (a) and (b) above scheduled as underlying.

(d) Commercial Crime insurance covering Employee Theft and Computer Fraud with limits of [**] per loss for loss or damage arising out of fraudulent or dishonest acts committed by the employees of Program Manager, acting alone or in collusion with others, including the property and funds of others in their possession, care, custody, or control.

(e) Technology Errors and Omissions Liability insurance in the amount of [**] per claim and aggregate.

Program Manager must furnish Bank with certificates of insurance as evidence of the above insurance requirements prior to commencement of operations under the Agreement. Such certificates shall verify that Bank is named as additional insured and the waiver of subrogation in favor of Bank under the Commercial General Liability policy as required herein, and that in the event of a cancellation or material change in coverage, Bank would be given thirty (30) days prior written notice. In the event Program Manager receives notice of cancellation for any of the required policies, Program Manager shall use commercially reasonable efforts to provide at least thirty (30) days prior notice of such event to Bank, unless the required coverage is immediately replaced by similar coverage in scope and limits. Failure of Program Manager to provide or of Bank to request a certificate of insurance shall not waive Program Manager's obligation under this Agreement to maintain the insurance required herein. In the event Program Manager fails to maintain the insurance set forth herein Bank shall have the right to terminate this Agreement immediately upon written notice.

32. **Cooperation**. Each Party hereto agrees to cooperate fully with the other Party hereto in furnishing any information or performing any action reasonably requested by such Party that is needed by the requesting Party to perform its obligations under this Agreement or to comply with Applicable Law or any request from a Regulatory Authority.

33. **Relationship of Parties**. Unless otherwise provided in this Agreement, the Parties agree that in performing their responsibilities pursuant to this Agreement, they are in the position of independent contractors. This Agreement is not intended to create, nor does it create and shall not be construed to create, a relationship of partner or joint venturer or any association for profit between Bank and Program Manager.

34. **Governing Law; Waiver of Jury Trial; Dispute Resolution and Arbitration**.

(a) This Agreement shall be interpreted and construed in accordance with the laws of the State of Tennessee, without giving effect to the rules, policies, or principles thereof with respect to conflicts of laws. Each Party hereby submits to the jurisdiction of the courts of Tennessee, and (subject to Bank's reservation of preemption rights herein).

(b) TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING HEREUNDER.

(c) Dispute Resolution and Arbitration.

(i) Cooperation to Resolve Disputes. The Parties shall cooperate and attempt in good faith to resolve any dispute, controversy, or claim arising out of or relating to this Agreement or the construction, interpretation, performance, breach, termination, enforceability or validity thereof (a "Dispute") promptly by negotiating between persons who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for administration and performance of the provisions or obligations of this Agreement that are the subject of the Dispute.

(ii) Arbitration. Any Dispute which cannot otherwise be resolved as provided in subsection (i) above shall be resolved by arbitration conducted in accordance with the commercial arbitration rules of the American Arbitration Association, and judgment upon the award rendered by the arbitral tribunal may be entered in any court having jurisdiction thereof. The arbitration tribunal shall consist of a single arbitrator mutually agreed upon by the Parties, or in the absence of such agreement within 30 days from the first referral of the Dispute to the American Arbitration Association, designated by the American Arbitration Association. The place of arbitration shall be Memphis, Tennessee, unless the Parties shall have agreed to another location within 15 days from the first referral of the Dispute to the American Arbitration Association. The arbitral award shall be final and binding. The Parties waive any right to appeal the arbitral award, to the extent a right to appeal may be lawfully waived. Each Party retains the right to seek judicial assistance: (1) to compel arbitration, (2) to obtain interim measures of protection prior to or pending arbitration, (3) to seek injunctive relief in the courts of any jurisdiction as may be necessary and appropriate to protect the unauthorized disclosure of its proprietary or confidential information, and (4) to enforce any decision of the arbitrator, including the final award. In no event shall either Party be entitled to punitive, exemplary or similar damages.

(iii) Confidentiality of Proceedings. The arbitration proceedings contemplated by this subsection shall be as confidential and private as permitted by Applicable Law. To that end, the Parties shall not disclose the existence, content or results of any proceedings conducted in accordance with this subsection, and materials submitted in connection with such proceedings shall not be admissible in any other proceeding, provided, however, that this confidentiality provision shall not prevent a petition to vacate or enforce an arbitral award, and shall not bar disclosures required by any laws or regulations.

35. **Severability**. Any provision of this Agreement which is deemed invalid, illegal or unenforceable in any jurisdiction, shall, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining portions hereof in such jurisdiction or rendering such provision or any other provision of this Agreement invalid, illegal, or unenforceable in any other jurisdiction.

36. **Assignment**. This Agreement and the rights and obligations created under it shall be binding upon and inure solely to the benefit of the Parties and their respective successors and permitted assigns. Neither Party shall be entitled to assign or transfer any interest under this Agreement (including a transfer by a Change in Control) without the prior written consent of the other Party, such consent not to be unreasonably withheld, delayed, conditioned except as follows: (i) Bank may assign this Agreement or any of its rights or obligations arising hereunder in connection with a Change of Ownership that does not rise to the level of a Change in Control; and (ii) Program Manager may assign this Agreement or any of its rights or obligations

arising hereunder in connection with a Change of Ownership that does not rise to the level of a Change in Control. No assignment under this Section 37 shall relieve a Party of its obligations under this Agreement.

37. **Third Party Beneficiaries**. Nothing contained herein shall be construed as creating a third-party beneficiary relationship between either Party and any other Person.

38. **Notices**. All notices and other communications that are required or may be given in connection with this Agreement shall be in writing and shall be deemed received (a) on the day delivered, if delivered by hand; (b) on the day transmitted, if transmitted by facsimile or e-mail with receipt confirmed; or (c) three (3) Business Days after the date of mailing to the other Party, if mailed first-class postage prepaid, at the address found on the first page, or such other address as either Party shall specify in a notice to the other.

39. **Amendment and Waiver**. This Agreement may be amended only by a written instrument signed by each of the Parties. The failure of a Party to require the performance of any Term of this Agreement or the waiver by a Party of any default under this Agreement shall not prevent a subsequent invalidity, illegality or unenforceability, without affecting in any way the remaining portions hereof in such jurisdiction or rendering such provision or any other provision of this Agreement invalid, illegal, or unenforceable in any other jurisdiction.

40. **Entire Agreement**. The Program Documents, including the Exhibits and Addenda attached hereto, constitute the entire agreement between the Parties with respect to the subject matter thereof, and supersede any prior or contemporaneous negotiations or oral or written agreements with regard to the same subject matter.

41. **Conflicts**. Reference is made to Bank Services Agreement. In the event of conflict between this Agreement and the Bank Services Agreement, the terms of this Agreement will prevail with respect to the Program, Bank Card Services, Program Manager Services, Processing Services and any Card issuance services provided by Bank or Program Manager under this Agreement.

42. **Counterparts**. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed and accepted by facsimile or portable data file (PDF) signature and any such signature shall be of the same force and effect as an original signature.

43. **Interpretation**. The Parties acknowledge that each Party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any amendments thereto, and the same shall be construed neither for nor against either Party, but shall be given a reasonable interpretation in accordance with the plain meaning of its terms and the intent of the Parties. The words “include,” “includes” or “including” mean without limitation by reason of enumeration. Words in singular number include the plural, and in the plural include the singular, unless the context otherwise requires.

44. **Force Majeure**. If any Party shall be unable to carry out the whole or any part of its obligations under this Agreement by reason of a Force Majeure Event, then the performance of the obligations under this Agreement of such Party as they are affected by such cause shall be excused during the continuance of the inability so caused, except that should such inability not be remedied within thirty (30) days after the date of such cause, the Party not so affected may at any time after the expiration of such thirty (30) day period, during the continuance of such inability, terminate this Agreement on giving written notice to the other Party. A “Force Majeure Event” as used in this Agreement means an unanticipated event that is not reasonably within the control of the affected Party or its subcontractors (including, but not limited to, acts of God, acts of governmental authorities, strikes, war, terrorist attacks, riot and any other causes of such nature), and which by exercise of reasonable due diligence, such affected Party or its subcontractors could not reasonably have been expected to avoid, overcome or obtain, or cause to be obtained, a commercially reasonable substitute therefore. No Party shall be relieved of its obligations hereunder if its failure of performance is due to removable or remediable causes which such Party fails to remove or remedy using commercially reasonable efforts within a reasonable time period. Either Party rendered unable to fulfill any of its obligations under this Agreement by reason of a Force Majeure Event shall give prompt notice of such fact to the other Party, followed by written confirmation of notice, and shall exercise due diligence to remove such inability with all reasonable dispatch.

45. **Headings**. Captions and headings in this Agreement are for convenience only and are not to be deemed part of this Agreement.

46. **Referrals**. Neither Party has agreed to pay any fee or commission to any agent, broker, finder, or other Person for or on account of such Person’s services rendered in connection with this Agreement that would give rise to any valid claim against the other Party for any commission, finder’s fee or like payment.

EXHIBIT A

PROGRAM DESCRIPTION

[**]

EXHIBIT B

PROGRAM FEES

[**]

EXHIBIT C

BANK CARD SERVICES

[**]

EXHIBIT D

PROGRAM MANAGER CARD SERVICES

[**]

Exhibit 10.4

CERTAIN INFORMATION IN THIS DOCUMENT, MARKED BY [**], HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10)(iv). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL

EXECUTION COPY

SERVICE AGREEMENT

THIS SERVICE AGREEMENT (the "Agreement") is entered into effective this 18th day of March 2020 (the "Effective Date"), by and between **Dave, Inc.,** ("Customer"), a Delaware corporation with a principal business address of 1265 S. Cochran Avenue, Los Angeles, California 90292, and **Galileo Financial Technologies, Inc.** ("Galileo"), a Utah corporation with a principal business address of 6510 South Millrock, Suite 300, Salt Lake City, Utah 84121.

Recitals

Customer is engaged in the business of developing, marketing, servicing and supporting debit cards, credit cards, prepaid cards, ATM cards and accounts ("Transaction Cards and Accounts").

Evolve Bank & Trust ("Bank"), an Arkansas bank, with a principal business address of 301 Shoppingway Boulevard, West Memphis, Arkansas 72301, is a principal member in good standing with the Associations, and is authorized to issue debit cards, prepaid cards and ATM cards, including, without limitation, the Transaction Cards and Accounts using the applicable Association's trademarks subject to the applicable Association's rules, regulations and bylaws.

Galileo is a certified third-party processor and has established certain facilities in order to perform the Services to support card programs such as the Transaction Cards and Accounts.

Agreement

1. Definitions. Unless otherwise defined herein, capitalized terms used herein shall have the meanings specified in **Exhibit A**.

2. Services.

2.1 Services. During the Term, Galileo shall make available to and perform for Customer and Bank the services related to the Transaction Cards and Accounts described in **Exhibit B** (the "Services").

2.2 Training. Galileo will provide Customer and Bank training on the Galileo System as described on **Exhibit B**.

2.3 Client Support. Galileo will designate a representative to Customer for client support. Customer may request in writing to change the individual assigned for client support and

Galileo will designate a new representative within forty-five (45) days from the receipt by Galileo of such written request.

2.4 Communications. Customer shall install and maintain in good operating condition and at Customer's own expense all necessary communication equipment needed to communicate with Galileo and Bank.

2.5 Enhancements. Customer may periodically request customizations, enhancements, additions or modifications (each an "Enhancement") to the Galileo System. Galileo shall evaluate all such requests and, if terms and conditions can be agreed to (which shall include payment by Customer of Galileo's development charges as specified in **Exhibit C**), Galileo shall develop and implement each such Enhancement on terms and conditions agreed to by the parties. Timing of any Enhancement is subject to scheduling and prioritization by Galileo of its available resources. Any Enhancement shall remain solely the property of Galileo and Customer shall acquire no right, claim or interest in the Galileo System.

2.6 Compliance With Law.

(a) Galileo and Customer acknowledge that Customer and Bank may be subject to a variety of federal, state and local laws, regulations and judicial and administrative decisions and interpretations applicable to the performance by Customer of its Transaction Cards and Accounts business, including without limitation those pertaining to equal credit opportunity, truth in lending, fair credit billing, fair credit reporting, fair debt collections practices, privacy and general consumer protection (the "Legal Requirements"). The parties shall cooperate with each other and Bank in resolving issues relating to compliance with the Legal Requirements in accordance with the provisions of this Section.

(b) Customer is solely responsible for (i) monitoring and interpreting the Legal Requirements, (ii) determining the particular actions, disclosures, formulas, calculations and procedures required for compliance with the Legal Requirements (whether to be performed by Galileo or Customer) and (iii) complying with the Legal Requirements.

(c) Galileo is solely responsible for compliance with all laws, regulations and judicial and administrative decisions applicable to Galileo as a provider of data processing services, including, without limitation, its obligations under the CCPA as provided in Section 2.6(e). To the extent Galileo provides dispute processing Services for Customer, Galileo is providing live agent customer services, and Customer does not direct Galileo in Galileo's provision of such dispute processing Services [**]. Except as specifically provided in this section, Galileo will not be responsible for any violation by Customer of a Legal Requirement.

(d) Subject to the terms of Section 10, Galileo and Customer shall cooperate with each other and Bank in providing information or records in connection with examinations, requests or proceedings of each other's governing authorities.

(e) **CCPA Compliance.** To the extent that the Customer is subject to the California Consumer Privacy Act (the "CCPA"), (a) Galileo acknowledges and agrees that

Galileo is a “service provider” to Customer under the CCPA, and the parties agree that the following terms apply: To the extent there is “personal information” (as defined under the CCPA) included within the Customer’s Proprietary Information, Cardholder data or Transaction Card and Account records (collectively, the “Customer Protected Data”), Galileo is prohibited from retaining, using, or disclosing such personal information within the Customer Protected Data except as necessary to provide the Services and as necessary to provide or return the Customer Protected Data to the Customer (or the Bank), or as otherwise allowed under the CCPA. (b) Galileo certifies that Galileo is not a “third party” under the CCPA and accordingly, is prohibited, with respect to any personal information (as defined under the CCPA) within the Customer Protected Data from (i) selling such personal information, (ii) retaining, using, or disclosing the personal information for any purpose other than for the specific purpose of providing the Services, including retaining, using, or disclosing the personal information for a commercial purpose other than the Services, and (iii) retaining, using, or disclosing the personal information outside the business relationship between the Customer and persons to which the Customer Protected Data pertains. Galileo certifies that it understands and will comply with the limitations in this paragraph. Galileo shall cooperate with Customer in responding to requests in compliance with the CCPA in accordance with the provisions of this Section.

2.7 Dependence on Performance by Others. The obligation of Galileo to timely perform the Services is expressly subject to the timely performance by Customer, Bank and third party vendors Customer engages, of their respective obligations and responsibilities, but only to the extent that failure to so perform directly affects Galileo’s ability to timely perform hereunder or the cost to Galileo of performing hereunder.

2.8 Startup. Customer will (i) use all reasonable resources, including the assignment of adequate personnel to assure timely performance of those functions required of Customer to permit Galileo to begin processing related to the Customer Accounts pursuant to this Agreement, and (ii) comply with any reasonable directions of Galileo so as to enable Galileo to begin processing related to the Customer Accounts pursuant to this Agreement.

2.9 Bank Agreement. Galileo shall have no obligation to provide the Services hereunder until Customer has provided to Galileo a duly executed issuing bank agreement reasonably satisfactory to Galileo, such approval not to be unreasonably withheld (the “Issuing Bank Agreement”) signed by a duly authorized officer of Bank. If during the Term Bank no longer issues Transaction Cards and Accounts for Customer and Customer engages a successor bank (“Successor Bank”) to issue Transaction Cards and Accounts, Galileo shall have no obligation to provide the Services hereunder until such Successor Bank has executed and delivered to Galileo an Issuing Bank Agreement reasonably satisfactory to Galileo, such approval not be unreasonably withheld, and provided such Successor Bank is in good standing with applicable regulatory authorities and relevant Associations.

3. Minimums; Exclusivity; Merger or Change of Control

3.1 Minimum Monthly Fee. Each calendar month (pro-rated for any billing period not beginning on the first day of the month or ending on the last day of the month) Customer will require and shall pay Galileo for Services sufficient to generate

aggregate Processing Fees at least equal to the amount set forth on **Exhibit C** under the heading "Minimum Monthly Fee" (the "Minimum Monthly Fee"). For the avoidance of doubt and based on economic assumptions material to each party underlying this transaction, Customer and Galileo expressly agree that Customer shall pay Galileo Fees during each calendar month in an amount at least equal to the Minimum Monthly Fee until this Agreement is terminated by Customer pursuant to the provisions of Sections 9.2 or until Galileo terminates this Agreement and invokes compensatory payments pursuant to Section 9.4.

3.2 [**]

3.3 Disposition of Portfolios. Subject to the provisions in Section 4.7 on Deconversion, upon the sale or other disposition by Customer of 90% or more of Customer Accounts that are subject to this Agreement (the "Former Accounts") Galileo will no longer be obligated to provide Services for the Former Accounts for Customer and Bank pursuant to this Agreement.

3.4 Merger or Change of Control.

(a) If Customer is merged into an Entity and such Entity is the survivor of such merger (the "Surviving Entity"), then (i) the provisions of this Agreement shall continue to apply to all Transaction Card and Account programs and Customer Accounts which were subject to this Agreement prior to such merger, (ii) the Surviving Entity, as Customer's successor-in interest, shall continue to be bound by Customer's obligations hereunder, and (iii) the provisions of this Agreement shall apply to all new Transaction Cards and Account programs and Customer Accounts acquired or created by the Surviving Entity after such merger. If there is a Change of Control of Customer, then the provisions of this Agreement shall continue to apply to all Transaction Card and Account programs and Customer Accounts of Customer and its Affiliates that were subject to this Agreement immediately prior to such Change of Control, but shall not apply to any accounts of the Entity that Acquires Control of Customer which were not subject to this Agreement prior to such Change of Control.

(b) In the event that Galileo is merged into an Entity and such Entity is the survivor of such merger ("Galileo Surviving Entity") or there is a Change of Control of Galileo, then (i) the provisions of this Agreement shall continue to apply to all Transaction Card and Account programs and Customer Accounts which were subject to this Agreement prior to such merger or Change of Control, (ii) Galileo or the Galileo Surviving Entity, as Galileo's successor in-interest, as applicable, shall continue to be bound by Galileo's obligations hereunder, and (iii) the provisions of this Agreement shall apply to all new Transaction Cards and Account programs and Customer Accounts acquired or created after such merger or Change in Control. Subject to other termination rights of Galileo in Section 9.1(a), (b), and (d) and subject to the Term of the Agreement, in the event of such a merger or Change of Control, Galileo or the Galileo Surviving Entity shall provide no less than twelve (12) months written notice to Customer of its intent to terminate the Agreement or to otherwise cease the provision of Services to Customer under this Agreement. Notwithstanding the foregoing, the parties agree that in the event Customer is in material breach of Section 2.6(b), Section 3.2, Section 5.3(a), or Section 10 and Customer fails to cure within thirty (30) days after detailed notice thereof by Galileo, or such shorter period as may be required by a Legal Requirement or by the applicable Association, then such

breach shall trigger Galileo's termination right under Section 9.1(c) and Galileo shall not be required to provide twelve (12) months prior written notice to Customer before exercising such termination right.

4. Payment for Services

4.1 Processing Fees. Customer shall pay Galileo the Processing Fees set forth in **Exhibit C** to this Agreement. All amounts shall be payable in US dollars. Galileo shall bill Customer on or about the fifth business day of each calendar month for all Processing Fees related to Services provided in the previous month pursuant to this Agreement. For each Processing Year after Processing Year 1, prior to the commencement of each Processing Year, Galileo may increase each line item of Processing Fees set forth in Exhibit C that were in effect for the immediately preceding Processing Year by an amount not to exceed the lesser of (a) [**] or (b) [**] in the most recently reported Consumer Price Index ("CPI"). For purposes hereof, the CPI shall be the index compiled by the United States Department of Labor's Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers ("CPI-U") having a base of 100 in 1982-84, using that portion of the index that appears under the caption "Other Goods and Services." The percentage increase in the CPI shall be calculated as of ninety (90) days in advance of the effective date of such increase, by comparing the CPI using a twelve (12) month period ending three (3) months prior to the effective date of such increase and expressing the increase in said CPI through the twelve (12) month period as a percentage.

4.2 Special Fees. Customer shall pay Galileo the Special Fees, including but not limited to U.S. postage, related to services provided by third-party providers and as may be set forth on **Exhibit C**. Galileo shall not be required to provide any Services the payment of which is covered by Special Fees until Galileo receives payment for such Special Fees. If, at any time while this Agreement is in effect, the charges are increased to Galileo for items which are included in the Special Fees or Galileo obtains communication or other services included in the Special Fees by another method, resulting in an increase in the charges to Galileo for such items, then Galileo shall increase by an equal amount the Special Fees Customer is then paying Galileo for such items under this Agreement. Such price change by Galileo shall be effective on the effective date of the increase to Galileo, provided however that Galileo provides notice to Customer within thirty (30) of the effective date of the increase to Galileo. On the Effective Date, Customer agrees to pay to Galileo a deposit (the "Special Fee Deposit") in the amount of [**] to be used by Galileo for the payment of Special Fees. Customer agrees to replenish the Special Fee Deposit on the first day of each month by paying to Galileo an amount sufficient to restore the Special Fee Deposit amount to the greater of (i) [**] or (ii) [**].

4.3 New Products. If Galileo commences to offer any new services or products generally to its customers and Customer elects to use any such service or product, or if Customer elects to use services or products which Customer had not previously elected to use, then Galileo shall provide such service or product at Galileo's then current fees and charges for such service or product or such other prices as Galileo and Customer may mutually agree.

4.4 Method of Payment. Customer shall provide Galileo with access to a bank account of Customer's funds (the "Bank Account") not requiring signature including

notifying Galileo of the demand deposit account number and transit routing number for the Bank Account. Customer agrees that Galileo may draw upon the Bank Account to pay fees, taxes, interest payments, charges, or any other amount due or payable to Galileo under the terms of this Agreement at any time twenty (20) days after Customer's receipt of an invoice indicating the amount owed by Customer to Galileo. To further acknowledge Customer's agreement to allow Galileo to access the Bank Account, Customer shall sign the ACH Authorization Form attached hereto as **Exhibit D** attached hereto and incorporated herein by reference. The detailed records of the amounts drawn on the Bank Account by Galileo shall be provided by Galileo to Customer on a monthly basis. Galileo shall be under no obligation to effect any Start-Up until the Bank Account has been established as provided herein, and Galileo may immediately suspend providing the Services without incurring any liability to Customer until there is an amount sufficient in the Bank Account to pay any amount due to Galileo under this Agreement.

4.5 Interest. If Galileo is unable to obtain payment of Processing Fees, Special Fees, compensatory payments pursuant to Section 9.4 of this Agreement or any other fee, tax, interest payment, charge or amount due or payable to Galileo by Customer under this Agreement at the time provided for payment under this Agreement, the unpaid amount of any Processing Fees, Special Fees, compensatory payments pursuant to Section 9.4 of this Agreement or other fee, tax, interest payment, charge or amount shall bear interest at the rate equal to the lesser of (a) [**]% per annum, or (b) the maximum rate permitted by applicable law, from the date on which payment was due until the date on which Galileo receives the payment.

4.6 Taxes. Customer shall be responsible for all taxes and similar charges imposed on it by any governmental authority assessed as a result of this Agreement. All fees, charges and other amounts payable to Galileo under this Agreement, including without limitation, Processing Fees, Special Fees and compensatory payments under Section 9.4, do not include any sales, use, excise, value added, or other applicable taxes, tariffs or duties, payment of which shall be Customer's sole responsibility, excluding any applicable taxes based on Galileo's net income or taxes arising from the employment or independent contractor relationship between Galileo and its personnel.

4.7 Deconversion. Upon the expiration or termination of this Agreement, Galileo shall provide Deconversion assistance to Customer as Customer may reasonably request; provided, however, that in no event shall Galileo be obligated to Deconvert any of Customer Accounts until a date which is mutually agreed upon and at least sixty (60) days but not greater than six (6) months after notice by Customer to Galileo requesting such Deconversion. For the avoidance of doubt, Galileo shall continue to provide Services to Customer and Customer Accounts pursuant to this Agreement until Deconversion is complete as Customer may reasonably request.

Except in the event of Deconversion occurring as a result of termination of the Agreement by Customer pursuant to Section 9.2, Customer shall pay Galileo, the Development rate per hour set forth on **Exhibit C** for resources for each activity completed by Galileo in order to accomplish the Deconversion and for all costs, including postage or shipping, of complying with Section 10.1.

4.8 Billing Disputes. If Customer in good faith disputes any portion of any invoice, Customer shall notify Galileo as soon as possible (and in any event no later than the due date of the payment) and submit to Galileo, by the due date of the invoice, (i) payment equal to the amount due on the invoice less the amount disputed by Customer and (ii) written documentation identifying and substantiating the disputed amount. Without limiting the foregoing, if a party fails to report a dispute, whether it be for a billing error or any other unresolved payment issue between the parties within one hundred eighty (180) days following the date on the applicable invoice or the discovery of such payment issue, then such party shall have waived its right to dispute that invoice. The parties agree to use their respective best efforts to resolve any dispute within thirty (30) days after a party receives written notice of the dispute from the other party. Any disputed amounts resolved in favor of Customer shall be credited to Customer's account on the next invoice following resolution of the dispute. Any disputed amounts determined to be payable to Galileo shall be due within fifteen (15) days of the resolution of the dispute.

5. Dispute Resolution and Indemnification

5.1 Dispute Resolution. In the event a controversy or claim between Galileo and Customer arises from or in connection with this Agreement whether based on contract, tort, common law, equity, statute, regulation, order or otherwise (a "Dispute"), the parties agree to reasonably discuss and make good faith efforts to negotiate an amicable settlement of such Dispute without the necessity of any formal proceedings.

5.2 Arbitration. If Customer and Galileo are unable to resolve any Dispute in the manner set forth in Section 5.1 above, such Dispute shall be submitted to arbitration. The parties agree that, except as otherwise provided above, any Dispute shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") in Salt Lake City, Utah, with judgment upon the award rendered by the arbitrator to be entered in any court of competent jurisdiction. Notwithstanding the foregoing or the then-current specified Commercial Arbitration Rules, the following shall apply with respect to the arbitration proceeding: (i) the existence, subject, evidence, proceedings, and ruling resulting from the arbitration proceedings shall be deemed confidential information, and shall not be disclosed by the parties, their representatives, or the arbitrator

(except: (a) to the professional advisers of Customer or Galileo; (b) in connection with a public offering of securities by Customer or Galileo; (c) as ordered by any court of competent jurisdiction; or (d) as required to comply with any applicable governmental statute or regulation); (ii) the arbitrator shall be required to prepare written findings of fact; and (iii) the arbitrator may grant any relief or remedy which the arbitrator deems just and equitable. The parties agree that money damages would not be a sufficient remedy for breach of Section 3.4(b) or Section 10 of this Agreement and that in addition to all other available legal remedies or equitable remedies, the non-breaching party shall be entitled to equitable relief, including injunctions and specific performance, for any breach thereof without proof of actual damages.

5.3 Indemnification.

(a) **Customer's Indemnification.** Customer shall indemnify, defend and hold harmless Galileo and its directors, officers, employees, agents and Affiliates from and against any and all third party claims, liabilities, losses and damages (including reasonable attorney fees, expert witness fees, expenses and costs of settlement) arising out of or with respect to this Agreement, to the extent that the claim, liability, loss or damage is caused by, relates to or arises out of (i) the breach by Customer of any of its duties, obligations, representations or warranties under this Agreement, or (ii) the relationship between Customer and the Cardholders; provided, however, that such indemnification obligations shall not apply to the extent such third party claims, liabilities, losses or damages are caused by, relate to, or arise out of Galileo's gross negligence or willful misconduct. With respect to such indemnity, Customer shall control the defense and settlement of any claim, action, suit or controversy with counsel selected by Customer and approved by Galileo (such approval not to be unreasonably withheld, condition or delayed); provided, however, Customer shall not control such claim's defense and settlement to the extent Customer fails at any time to provide evidence satisfactory to Galileo of Customer's financial capability to defend such claim and satisfy any settlement consistent with its indemnification obligations. Further, Customer shall not, without Galileo's prior written consent, enter into a settlement that imposes any noneconomic obligations on, that admits the liability of, reasonably can be expected to require a material affirmative obligation of, result in any ongoing material obligation to, or materially prejudice or detrimentally impact, Galileo.

(b) **Galileo's Indemnification.** Galileo shall indemnify and hold harmless Customer and its directors, officers, employees, agents and Affiliates from and against any and all third party claims, liabilities, losses or damages (including reasonable attorney fees, expert witness fees, expenses and costs of settlement) arising out of or with respect to this Agreement to the extent that the claim, liability, loss or damage is caused by, relates to or arises out of the breach by Galileo of any of its duties, obligations, representations or warranties under this Agreement; provided, however, that such indemnification obligations shall not apply to the extent such third party claims, liabilities, losses or damages are caused by, relate to, or arise out of Customer's gross negligence or willful misconduct. With respect to such indemnity, Galileo shall control the defense and settlement of any claim, action, suit or controversy with counsel selected by Galileo and approved by Customer (such approval not to be unreasonably withheld, condition or delayed); provided, however, Galileo shall not control such claim's defense and settlement to

the extent Galileo fails at any time to provide evidence satisfactory to Customer of Galileo's financial capability to defend such claim and satisfy any settlement consistent with its indemnification obligations. Further, Galileo shall not, without Customer's prior written consent, enter into a settlement that imposes any noneconomic obligations on, that admits the liability of, reasonably can be expected to require a material affirmative obligation of, result in any ongoing material obligation to, or materially prejudice or detrimentally impact, Customer.

6. Limitation of Liability

6.1 Limitation of Liability. Notwithstanding anything in this Agreement to the contrary, and except for willful misconduct, gross negligence, and fraud, either party's cumulative liability for any loss or damage, direct or indirect, for any cause whatsoever (including, but not limited to those arising out of or related to this Agreement) with respect to claims (whether third party claims, indemnity claims or otherwise) relating to events in any one Processing Year shall not under any circumstances exceed the amount of [**] of the Processing Fees paid to Galileo pursuant to this Agreement for Services performed in the immediately preceding Processing Year, or, in the case of Processing Year 1, [**] of the total Processing Fees collected as of the date such claim is made.

6.2 No Special Damages. IN NO EVENT SHALL GALILEO OR CUSTOMER BE LIABLE UNDER ANY THEORY FOR ANY LOST PROFITS, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES.

7. Disclaimer. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, GALILEO SPECIFICALLY DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, ARISING OUT OF OR RELATED TO THIS AGREEMENT. THIS AGREEMENT IS A SERVICE AGREEMENT AND THE PROVISIONS OF THE UNIFORM COMMERCIAL CODE SHALL NOT APPLY TO IT.

8. Term of Agreement

8.1 Term. This Agreement is effective from the Effective Date and shall extend for four (4) Processing Years (the "Original Term"). "Processing Year 1" begins on Startup and ends 12 months thereafter. For purposes of this Agreement, each subsequent "Processing Year" means each twelve (12) month period commencing on the expiration of the previous Processing Year in which Services are performed.

8.2 Renewal After the Original Term. This Agreement shall automatically renew for consecutive periods of one (1) Processing Year (each a "Renewal Term" and together with the Original Term, the "Term"), unless either party provides the other party written notice of its intent not to renew this Agreement at least four (4) months prior to the termination date of the Original Term or a Renewal Term.

9. Termination

9.1 Termination by Galileo. Galileo may terminate this Agreement:

(a) subject to the provisions Section 4.8, if Galileo fails to receive payment from Customer pursuant to the provisions of Section 4.4 of this Agreement and Customer, within five (5) business days after written notice still has not made such payment to Galileo, or immediately without notice if Galileo has the right more than four times in any twelve month period to give such notice under this paragraph whether or not the notice is given;

(b) if any Insolvency Event occurs with respect to Customer;

(c) in the event any representation or warranty of Customer is inaccurate in any material respect or Customer materially breaches any of its duties or obligations contained in this Agreement, and fails to cure within fifteen (15) days after notice thereof by Galileo, or such shorter period as may be required by a Legal Requirement or by the applicable Association; or

(d) subject to the provisions Section 4.7, the sale or disposition of Former Accounts as provided in Section 3.3 of this Agreement. The rights of Galileo to terminate under this Section 9.1 are cumulative and the existence of the right under any provision or subsection is not exclusive of the right under any other provision or subsection.

9.2 Termination by Customer. Customer may terminate this Agreement:

(a) if any Insolvency Event occurs with respect to Galileo;

(b) if any Termination Event occurs as set forth in Section 2.4 of Exhibit B;

(c) for any reason, by providing Galileo one-hundred twenty (120) days' notice specifically referencing this Section 9.2(c) and including with such notice the payment specified in Section 9.4 below;

(d) in the event any representation or warranty of Galileo is inaccurate in any material respect or Galileo materially breaches any of its duties or obligations contained in this Agreement, and Galileo fails to cure within fifteen (15) days after notice thereof by Customer, or such shorter period as may be required by applicable laws; or

(e) if Customer provides notice to Galileo within sixty (60) days after receiving notice from Galileo of a Change of Control of Galileo. If Customer fails to provide such notice to Galileo, the termination right under this Section shall be of no further force or effect. The rights of Customer to terminate under this Section 9.2 are cumulative and the existence of the right under any provision or subsection is not exclusive of the right under any other provision or subsection.

9.3Effect of Termination. Upon expiration or termination of this Agreement, Galileo shall have no further obligation to provide the Services to Customer and

Bank and all outstanding unpaid amounts due and owing to Galileo shall become immediately due and payable. Expiration or termination of this Agreement shall not affect the following:

(a) the obligation of Customer to pay for Services rendered or any other obligation or liability owing or which becomes owing under this Agreement whether the obligations arise prior to or after the date of termination including the obligations to make the payments provided in Sections 4 and 9.4; or

(b) the provisions of Sections 4.7, 5, 6, 7, 10 and 12.4.

9.4 Payment on Termination.

(a) If Galileo terminates this Agreement pursuant to Section 9.1(a) – (c), or if Customer terminates pursuant to Section 9.2(c), Customer and Galileo agree that, based on economic assumptions material to each party, Customer shall make a compensatory payment to Galileo. Such compensatory payment shall be made by Customer upon termination by Galileo, and prior to Deconversion, and shall equal [**]. For the avoidance of doubt, Customer shall not be required to make the compensatory payments to Galileo set forth in this Section 9.4(a) in the event that Customer terminates this Agreement pursuant to Section 9.2.

(b) Galileo and Customer agree that the compensatory payments set forth in Section 9.4(a) are a reasonable estimation, as of the date of this Agreement, of the actual damages which Galileo would suffer if Galileo were to fail to receive the processing business for the full Term. In making such determination, the parties have considered all relevant factors known to the parties as of the date hereof and have given special consideration to the particular circumstances which may attend each particular termination event including the allocation of risks associated therewith between the parties. If not but for the full consideration of all relevant factors known to the parties as of the date hereof, and the payments to be made pursuant to this Section 9.4, neither party would have been willing to enter into this Agreement.

(c) Despite the foregoing, nothing in this Section 9.4 shall limit either party's right to recover from the other party any amounts for which the other party is otherwise liable under this Agreement.

10. Confidential Information

10.1 Customer's Proprietary Information. Galileo acknowledges that all products and systems provided to Galileo by Customer exclusively developed by Customer, including any developments, improvements or modifications, shall remain solely and exclusively the property of Customer. Throughout the Term of this Agreement and thereafter, Galileo shall not obtain any proprietary rights in any proprietary or confidential information which has been or is disclosed to Galileo by Customer, including without limitation, any data or information that is trade secret or competitively sensitive material; user manuals; screen displays and formats; computer software, systems, products, system architecture and documentation related to each of the foregoing, in each case, whether owned, licensed or otherwise provided or used by Customer; software performance results; flow charts and other

specifications (whether or not electronically stored); data and data formats (collectively, "Customer's Proprietary Information"); provided, however, that Customer Proprietary Information does not include Enhancements as defined in Section 2.5. Upon Customer's request, Galileo shall return to Customer (upon the expiration or termination of all of Galileo's obligations under this Agreement) all or any requested portion of Customer's Proprietary Information.

10.2 Galileo's Proprietary Information. Customer acknowledges that all products and systems provided or used by Galileo, including any developments, Enhancements, improvements or modifications, shall remain solely and exclusively the property of Galileo. In addition, Galileo shall retain sole and exclusive ownership in all works of authorship, ideas, concepts, know-how and inventions, created or conceived by Galileo in the course of providing the Services under this Agreement. Customer acknowledges that Galileo, in its sole discretion, may provide to other customers, similar services to those outlined in this Agreement utilizing any of the Galileo owned intellectual property referenced in this Section 10.2 or otherwise set forth or referred to in this Agreement. Customer shall not obtain any proprietary rights in any proprietary or confidential information which has been or is disclosed to Customer by Galileo, including without limitation, any data or information that is trade secret or competitively sensitive material; user manuals; screen displays and formats; computer software, systems, products, system architecture and documentation related to each of the foregoing, in each case, whether owned, licensed or otherwise provided or used by Galileo; software performance results; flow charts and other specifications (whether or not electronically stored); data and data formats (collectively, "Galileo's Proprietary Information") whether any of the materials are developed or purchased specifically for performance of this Agreement or otherwise. Upon Galileo's written request, Customer shall return to Galileo all of Galileo's Proprietary Information upon the expiration or termination of this Agreement.

10.3Confidentiality of Agreement. Except as required by law each party shall keep confidential and not disclose, and shall cause its Affiliates and each of their respective directors, officers, employees, representatives, agents and independent contractors to keep confidential and not disclose, any of the terms and conditions of this Agreement to any third party without the prior written consent of the other party.

10.4Confidentiality. Galileo and Customer shall maintain Customer's Proprietary Information and Galileo's Proprietary Information, respectively, in strict confidence. Without limiting the generality of the foregoing, Galileo and Customer each agree:

(a) Not to disclose or permit any other person or Entity access to Customer's Proprietary Information (including Customer account information) or Galileo's Proprietary Information, as appropriate, except that the disclosure or access shall be permitted to an employee, officer, director, agent, representative, external or internal auditors or independent contractor of the party requiring access to the same in the course of his or her employment or services;

(b) To ensure that its employees, officers, directors, agents, representatives,

and independent contractors are advised of the confidential nature of Customer's Proprietary Information and Galileo's Proprietary Information, as appropriate, and are precluded from taking any action prohibited under this Section 10, provided that in any event Customer and Galileo shall each be liable for any breach of this Section 10 by their respective employees, officers, directors, agents, representatives and independent contractors;

(c) Not to alter or remove any identification, copyright or proprietary rights notice which indicates the ownership of any part of Customer's Proprietary Information or Galileo's Proprietary Information, as appropriate; and

(d) To notify the other promptly and in writing of the circumstances surrounding any possession, use or knowledge of Customer's Proprietary Information or Galileo's Proprietary Information, as appropriate, at any location or by any Entity other than those authorized by this Agreement.

10.5Release of Information. Galileo and Customer agree that Galileo's Proprietary Information and / or Customer's Proprietary Information may be made available to supervisory or regulatory authorities of Customer or Galileo upon the written request of any of the foregoing.

10.6 Exclusions. Nothing in this Section 10 shall restrict the parties with respect to information or data identical or similar to that contained in Customer's Proprietary Information or Galileo's Proprietary Information, as appropriate, but which: (a) the receiving party can demonstrate was rightfully possessed by it before it received the information from the disclosing party; (b) was in the public domain prior to the date of this Agreement or subsequently becomes publicly available through no fault of the receiving party or any person or Entity acting on its behalf; (c) was previously received by the receiving party from a third party or is subsequently furnished rightfully to the receiving party by a third party (no Affiliate of Galileo or Customer shall be considered to be a third party) not known to be under restrictions on use or disclosure; (d) is independently developed by such party; (e) is required to be disclosed by law, regulation or court order, provided that the disclosing party will exercise reasonable efforts to notify the other party prior to disclosure; or (f) is required to be disclosed to comply with or to enforce the terms of this Agreement, provided that the disclosing party will exercise reasonable efforts to notify the other party prior to disclosure.

10.7 Remedy. If a party breaches this Section 10, the non-breaching party will suffer irreparable harm and the total amount of monetary damages for any injury to such party will be impossible to calculate and therefore an inadequate remedy. Accordingly, the non-breaching party may (a) seek temporary and permanent injunctive relief against the breaching party or (b) exercise any other rights and seek any other remedies to which the non-breaching party may be entitled to at law, in equity and under this Agreement for any violation of this Section 10.

11. Representations

11.1 Galileo's Representations. Galileo represents and warrants that: (i) the execution and delivery of this Agreement and the consummation of the transaction herein contemplated does not conflict in any material respect with or constitute a

material breach or material default under the terms and conditions of any documents, agreements or other writings to which it is a party; (ii) the Services provided herein shall be provided with reasonable care and skill; (iii) it is capable of performing its obligations under this Agreement; (iv) it shall not hold itself out as an agent of Customer; (v) to its knowledge, it is the owner of or has the right to use all Galileo Proprietary Information in relation to the Services; and (vi) to its knowledge the Services do not infringe third party intellectual property rights in any way.

11.2 Customer's Representation. Customer represents and warrants that: (i) the execution and delivery of this Agreement and the consummation of the transaction herein contemplated does not conflict in any material respect with or constitute a material breach or material default under the terms and conditions of any documents, agreements or other writings to which it is a party; (ii) it is capable of performing its obligations under this Agreement; (iii) it shall not hold itself out as an agent of Galileo; (iv) to its knowledge, it is the owner of or has the right to use all Customer Proprietary Information; and (v) to its knowledge the Customer Proprietary Information does not infringe third party intellectual property rights in any way.

12. Miscellaneous

12.1 Assignment. The rights and obligations of the parties are personal and not assignable, either voluntarily or by operation of law, without the prior written consent of the other party; provided, however, that no such prior written consent is required in the context of a merger, acquisition, or sale of all or substantially all of a party's assets. Subject to the foregoing, all provisions contained in this Agreement shall extend to and be binding upon the parties hereto or their respective successors and permitted assigns.

12.2 Notice. All notices which either party may be required or desire to give to the other party shall be in writing and shall be given by personal service, telecopy, registered mail or certified mail (or its equivalent), or overnight courier to the other party at its respective address or telecopy telephone number set forth below. Mailed notices and notices by overnight courier shall be deemed to be given upon actual receipt by the party notified. Notices delivered by telecopy shall be confirmed in writing by overnight courier and shall be deemed to be given upon actual receipt by the party to be notified.

If to Galileo:

Galileo Financial Technologies, Inc.
6510 South Millrock, Suite 300
Salt Lake City, Utah 84121
Attn: CEO
Fax Number: [**]

With a copy to General Counsel at the same address.

If to Customer:
Dave, Inc.

1265 S. Cochran Avenue
Los Angeles, California 90292
Attn: CEO
Fax: [**]
With a copy to General Counsel at the same address.

A party may change its address set forth above by giving the other party notice of the change in accordance with the provisions of this section.

12.3 Relationship of Parties. Nothing contained in this Agreement shall be deemed to create a partnership, joint venture or similar relationship between the parties. The parties' relationship shall be that of independent parties contracting for services.

12.4 Third Party Beneficiaries. This Agreement is entered into solely for the benefit of Galileo, Bank and Customer and, other than Bank, shall not confer any rights upon any Entity not a party to this Agreement.

12.5 Subcontractors. Galileo shall not subcontract all or any part of the Services without the prior written consent of Customer.

12.6 Severability. If any provision of this Agreement is held invalid or unenforceable for any reason, the invalidity shall not affect the validity of the remaining provisions of this Agreement, and the parties shall substitute for the invalid provisions a valid provision which most closely approximates the intent and economic effect of the invalid provision.

12.7 Risk of Loss. Customer shall be responsible for any and all risk of loss to any tangible item (a) provided by Galileo for Customer (including without limitation statements and embossed cards) upon delivery of such items to the U.S. Postal Service or such other courier as Customer may select, and (b) provided by Customer to Galileo until actual receipt of such items by Galileo. It is expressly understood that the U.S. Postal Service and any courier selected by Customer are the agents of Customer and not Galileo.

12.8 Entire Agreement. This Agreement, including Exhibits, sets forth all of the promises, agreements, conditions and understandings between the parties respecting the subject matter hereof and supersedes all negotiations, conversations, discussions, correspondence, memorandums, and agreements between the parties concerning the subject matter.

12.9 Amendments. This Agreement may not be amended except in writing, signed by authorized representatives of the parties to this Agreement.

12.10 Counterparts. This Agreement may be executed by facsimile and in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

12.11 Governing Law. This Agreement shall be governed by the laws of the State of Utah as to all matters including validity, construction, effect, performance and remedies without giving effect to the principles of choice of law thereof. With respect to any dispute, claim or action arising out of or in connection with this

Agreement, each party irrevocably submits to the sole and exclusive jurisdiction of the state and federal courts located in Salt Lake City, Utah and waives any objection which it may have at any time to the venue of any suit, action or proceeding arising out of or relating to this Agreement brought in such courts, and each party further waives any claim such suit, action or proceeding is brought in an inconvenient forum and further irrevocably waives the right to object, with respect to such suit, action or proceeding brought in any such court, that such court does not have jurisdiction over Customer. For purposes of any such suit, action or proceeding each party agrees that any process to be served in connection therewith shall, if delivered, sent or mailed in accordance with Section 12.2, constitutes good, proper and sufficient service thereof.

12.12 Force Majeure and Restricted Performance. Except for Customer's payment obligations under this Agreement, if performance by Galileo or Customer of any service or obligation under this Agreement, including Deconversion, is prevented, restricted, delayed or interfered with by reason of labor disputes, strikes, acts of God, floods, lightning, severe weather, shortages of materials, rationing, utility or communication failures, failure of the applicable Association, failure or delay in receiving electronic data, earthquakes, war, revolution, civil commotion, acts of public enemies, blockade, embargo, or any law, order, proclamation, regulation, ordinance, demand or requirement having legal effect of any government or any judicial authority or representative of any such government, or any other act, omission or cause whatsoever, whether similar or dissimilar to those referred to in this clause, which are beyond the reasonable control of Galileo or Customer, then Galileo or Customer shall be excused from the performance to the extent of the prevention, restriction, delay or interference.

12.13 Waiver. The failure of a party at any time to require performance by the other party of any provision of this Agreement shall not affect in any way the full right to require the performance at any subsequent time. The waiver by a party of a breach of any provision of this Agreement shall not be taken or held to be a waiver of the provision itself.

12.14 Press Releases and Announcements. The parties agree to issue a joint press release, subject to mutual approval, describing the relationship between the parties. Additionally, the parties agree that (i) in proposals and other marketing materials, including on Galileo's website and social media, Galileo may list Customer as a customer, display Customer's logo, and describe in general terms the Services provided by Galileo under this Agreement, and (ii) Customer shall participate in a third-party marketing interview for Galileo's publication on its website and/or social media. Except as described in the foregoing, neither party hereto shall issue any press release (or make any other public announcement) related to this Agreement or the transactions contemplated hereby without the prior written approval of the other party hereto, except as may be necessary, in the opinion of counsel to the party seeking to make disclosure, to comply with the requirements of this Agreement or applicable law. If any such press release or public announcement is so required, the party making such disclosure shall consult with the other party prior to making such disclosure, and the parties shall use all reasonable efforts, acting in good faith, to agree upon a text for such disclosure which is satisfactory to both parties.

12.15 non-solicitation. From the Effective Date until six (6) months after termination of this Agreement ("Non-Solicitation Period") neither party shall directly or indirectly solicit or seek to procure (other than by general advertising), without the prior consent of the other party the employment of the other party's employees during the period they are working for such party and for six (6) months thereafter.

12.16 Insurance.

(a) During the Term of this Agreement, Galileo shall maintain at its own expense insurance of the type and in the amounts specified below:

i. statutory workers' compensation insurance covering employees as prescribed by law;

ii. commercial general liability insurance (including contractual liability insurance) in an amount not less than [**] per occurrence and [**] in the aggregate;

iii. all-risk property insurance covering all owned and/or leased property and including extra expense coverage, and all-risk property insurance covering the assets owned by or acquired for Customer hereunder stored on Galileo's premises in an amount sufficient to cover the replacement of such assets; and

iv. cyber liability insurance, including coverage for employee dishonesty and computer fraud insurance covering losses arising out of or in connection with any fraudulent or dishonest acts committed by Galileo personnel, acting alone or with others, in an amount not less than [**] per occurrence.

v. professional liability/errors and omissions insurance with coverage of not less than [**] per claim. If such coverage is written on a claims-made basis, coverage with respect to any and all work performed in connection with this Agreement shall be maintained for a period of at least three (3) years after the expiration or termination of this Agreement.

(b) Except to the extent prohibited by applicable law, Galileo shall name Customer as an additional insured under the insurance policies specified in Section 12.16(a)ii. All insurance required to be maintained hereunder by Galileo shall be written through companies having an A.M. Best's rating of at least A- or with such other companies as may reasonably be approved by Customer. The commercial liability insurance maintained by Galileo hereunder shall include the condition that it is primary and that any such insurance maintained by Customer or any other additional insured is excess and non-contributory. If Galileo's liability policies do not contain the standard separation of insured provision, or a substantially similar clause, such policies shall be endorsed to provide cross-liability coverage.

(c) Upon receipt of written request not sooner than thirty (30) days after the execution of this Agreement, Galileo shall furnish to Customer certificates of insurance or other appropriate documentation (including evidence of renewal of insurance) evidencing all coverage referenced above and naming Customer as an additional insured for the coverage listed above. Galileo shall use commercially reasonable efforts to cause such certificates or other documentation to include a provision(s) whereby the carrier(s) will endeavor to provide thirty (30) days' notice to Customer at the address(es) set forth herein for notice prior to coverage cancellation or reduction. Such cancellation or reduction shall not relieve Galileo of its continuing obligation to maintain insurance coverage in accordance with this Section 12.16. The obligation of Galileo to provide the insurance specified herein

shall not limit in any way any obligation or liability of Galileo provided elsewhere in this Agreement.

12.17 Security Audit; Audit Rights.

(a) **Security Audit**. On an annual basis, Galileo will employ a third party experienced in performing system security audits to perform a SOC1 Type 2 audit of the internal controls maintained by Galileo in providing the Services, such audit to be made in compliance with the requirements under the applicable auditing standards. Galileo shall promptly provide Customer with a copy of the final auditor's report of the audit following receipt. If such audit report indicates any deficiencies in the controls utilized by Galileo, Galileo shall promptly undertake, at Galileo's expense, to remedy such deficiencies, and shall report to Customer when such deficiencies have been remedied.

(b) **Customer Right to Audit.** Customer or its designated representative shall have the right, upon at least thirty (30) days written advance notice to Galileo, to enter Galileo's facilities in order to review, inspect, and audit records of Galileo related to the provision of Services to Customer pursuant to this Agreement. Customer or its designated representative, provided such representative is approved in advance by Galileo, such approval not to be unreasonably withheld, condition or delayed, shall perform such review, inspection and audit at Customer's sole cost and at a time that is non-performance impacting to Galileo. Galileo shall make all reasonable efforts to comply with requests from Customer or its designated representative to furnish information or access to Galileo's systems for the purpose of completing the review, inspection and audit. Such audits will be conducted no more than once in any period of twelve (12) consecutive months. Any confidential or proprietary information of Galileo disclosed to Customer or the independent audit firm in the course of the audit will be subject to a confidentiality agreement reasonably acceptable to Galileo to be signed by Galileo and such independent firm prior to the commencement of such audit.

12.18 Disaster Recovery. Galileo shall, upon written request, share its disaster recovery plan applicable to the Services with Customer. Galileo shall conduct a test of its disaster recovery plan at least annually and will promptly provide Customer with an annual written report describing the results of its testing. In the event of a disaster or similar event affecting Galileo's performance of its obligations hereunder, Galileo shall promptly notify Customer and shall execute its disaster recovery plan.

12.19 Due Diligence. Customer shall, upon written request, provide to Galileo its most recent audited financial statements, Anti-Money Laundering Policy and information related to any shareholder of Customer holding 10% or more of the outstanding equity of Customer and such other information reasonably requested by Galileo.

12.20 Error Remediation. Except as otherwise provided in the Agreement and this Section 12.20, Galileo shall be liable for and work in good faith with Customer to resolve processing errors or omissions by Galileo, which could result in a loss to Customer (except to the extent Customer contributed to the processing errors or omissions) including but not limited to: (a) posting any credit more than once; (b)

failure to enforce any transaction limitation or account balance; (c) failure to properly authorize a transaction; (d) fee assessment issues or (e) failure to post any transaction or adjustment submitted by Customer via web services or as a batch. If such an error can be mitigated by Galileo taking certain actions including but not limited to recovering funds directly from the applicable Cardholders, Galileo will seek approval from Customer prior to attempting to recover such funds directly from the Cardholder; provided, however, if Customer withholds its consent to collect such additional funds from the Cardholder, Customer shall be responsible for such loss to the extent Galileo could have collected such additional funds from the Cardholders taking into account Cardholder balances and future payment activity of the Cardholders.

12.21 PCI Compliance. Galileo is certified compliant, and shall remain certified compliant throughout the term of the Agreement with the Payment Card Industry ("PCI") Data Security Standards provided such standards are required by the Associations. Upon request by Customer, Galileo shall provide annually evidence that it has been certified as PCI compliant. In the event that any party hereto accesses, stores, transmits or processes Cardholder data or data subject to PCI obligations, such party shall establish and maintain appropriate administrative, technical and physical safeguards in accordance with PCI.

[The remainder of this page is intentionally blank]

IN WITNESS WHEREOF, this Service Agreement is executed effective as of the Effective Date.

Dave, Inc.	Galileo Financial Technologies, Inc.:
/s/ Kyle Beilman	/s/ Clay Wilkes
By	By
Kyle Beilman	Clay Wilkes
Name	Name
COO	CEO
Its	Its
3/23/2020	3/25/2020
Date	Date

EXHIBIT A

Definitions

The following definitions apply to the terms set forth below when used in this Agreement:

"AAA" is defined in Section 5.2 to this Agreement.

"Acquire" (and with the correlative meaning "Acquisition") means to acquire, directly or indirectly, an interest through purchase, exchange or other acquisition of assets, stock or other equity interests, or to merge or consolidate or any similar transaction. 0

"Affiliate" means, with respect to any Entity, any other Entity which, directly or indirectly, owns or Controls, is owned or Controlled by, or is under common ownership or common Control with such Entity.

"Agreement" means this Service Agreement as amended from time to time including any Exhibits attached hereto from time to time.
"Association" means MasterCard, Visa and/or any other any other card network system.

"Bank" is defined in the Recitals of this Agreement.

"Bank Account" is defined in Section 4.4 of this Agreement.

"Cardholder" means an individual or Entity which has a Cardholder Account with Bank.

"Cardholder Account" means an arrangement between an individual or an Entity and Bank which provides that the individual or Entity may use one or more Transaction Cards and Accounts issued by Bank.

"Change of Control" means a change in the direct or indirect ownership of a majority of an Entity's outstanding capital stock (or other form of ownership) or a majority of the voting power in any election of directors.

"Control" (and with the correlative meaning "Controlled") means the power to direct the management or affairs of an Entity and "ownership" means the beneficial ownership of more than 50% of the equity securities of the Entity.

"Customer" is defined in the introductory paragraph of this Agreement.

"Customer Accounts" means the Cardholder Accounts of Customer and Bank.

"Customer's Proprietary Information" is defined in Section 10.1 of this Agreement.

"Deconversion" means cooperation in migration of the Services to Customer or a new processor on behalf of Customer and the transfer of information concerning Customer Accounts from the Galileo System to Customer or a new processor pursuant to Galileo's standard deconversion procedures upon expiration or following termination of this Agreement.

"Dispute" is defined in Section 5.1 of this Agreement.

"Effective Date" is defined in the introductory paragraph of this Agreement.

"Enhancements" is defined in Section 2.5 of this Agreement.

"Entity" means a corporation, partnership, sole proprietorship, joint venture, or other form of organization.

"Former Accounts" is defined in Section 3.3 of this Agreement.

"Galileo" is defined in the introductory paragraph of this Agreement.

"Galileo's Proprietary Information" is defined in Section 10.2 of this Agreement.

"Galileo System" means the computer equipment, computer software and related equipment and documentation used at any time and from time to time by Galileo to provide the Services.

"Insolvency Event" occurs, with respect to any party, when such party:

(i) is dissolved, becomes insolvent, generally fails to pay or admits in writing its inability generally to pay its debts as they become due;

(ii) makes a general assignment, arrangement or composition agreement with or for the benefit of its creditors; or

(iii) files a petition in bankruptcy or institutes any action under federal or state law for the relief of debtors or seeks or consents to the appointment of an administrator, receiver, custodian, or similar official for the wind up of its business (or has such a petition or action filed against it and such petition action or appointment is not dismissed or stayed within thirty (30) days).

"Legal Requirements" is defined in Section 2.6(a) of this Agreement.

"MasterCard" means MasterCard® International, a New York corporation.

"Minimum Monthly Fee" is defined in Section 3.1 of this Agreement.

"Original Term" is defined in Section 8.1 of this Agreement.

"Processing Fees" means all fees and charges incurred and for Services performed at the prices set forth in **Exhibit C** to this Agreement, as adjusted from time to time by Galileo consistent with this Agreement with the exception of Special Fees and specifically excluding all charges for taxes and interest.

"Processing Year" is defined in Section 8.1 of this Agreement.

"Processing Year 1" is defined in Section 8.1 of this Agreement.

"Renewal Term" is defined in Section 8.2 of this Agreement.

"Services" is defined in Section 2.1 of this Agreement.

"Special Fee Deposit" is defined in Section 4.2 of this Agreement.

"Special Fees" means the amounts payable by Customer for services or goods provided by a third party, including, without limitation, fees and expenses, Bank fees and expenses, Association fees and expenses, tariff line rates, WATS lines rates, data circuit charges, communications common carrier charges, postage costs, courier costs and costs of forms and such other costs and expenses as may be set forth in **Exhibit C** to this Agreement.

"Startup" means the transfer of Customer's data relating to the Customer Accounts to the Galileo System and the commencement of Services by Galileo.

"Successor Bank" is defined in Section 2.9 of this Agreement.

"Surviving Entity" is defined in Section 3.4(a) of this Agreement.

"Term" is defined in Section 8.2 of this Agreement.

"Transaction Cards and Accounts" is defined in the Recitals of this Agreement.

"Visa" means VISA® U.S.A., Inc. a Delaware corporation.

Exhibit B

Services

Section 1. **Description of Services**.

Galileo will provide Customer the following Services:

(a) Processing of all authorization and settlement transactions made with or on a Transaction Card or Cardholder Account;

(b) Processing of all payments and adjustments made to a Transaction Card or Cardholder Account;

(c) Maintaining and updating Cardholder information;

(d) Providing interface to Customer's vendors for necessary third-party servicing including card embossing, letter generation and statement generation;

(e) Providing customer service with customer service personnel capable of serving English speaking Cardholders to assist Cardholders contacting customer service via phone, fax or in writing with issues or problems related to Transaction Cards and Accounts;

(f) Providing Web services for Cardholder applications and viewing Transaction Card or Cardholder Account transactions;

(g) Providing Cardholders with a, 24-hours per day, 7 days per week mechanism for obtaining and /or hearing Transaction Cards and Accounts information in English over the telephone, including through an interactive voice response (IVR) unit;

(h) Providing to Customer reporting and documentation of all Transaction Cards and Accounts sales, settlement and Transaction Cards and Accounts portfolio monetary transactions;

(i) Cooperating and working with all parties involved in the sales, issuance, loading, acceptance of the Transaction Cards and Accounts, and merchants accepting the Transaction Cards and Accounts for purchases or cash withdrawals;

(j) Providing chargeback monitoring and processing as requested by Customer within Association and regulatory guidelines;

(k) Providing a suite of fraud management reports, processes and procedures as Customer may request in writing and agreed to by Galileo;

(l) Providing such training as reasonably necessary to enable Customer's personnel to successfully use these Services;

(m) Maintaining, updating and archiving Cardholder information and transaction related information, from which Bank will be able to generate reports;

(n) Managing returned mail including Transaction Cards and Accounts or

periodic statements, if any, due to undeliverable addresses or other reasons;

(o) Providing reasonable assistance, on an on-going basis, to Bank in resolving Cardholder or vendor problems related to the Transaction Cards and Accounts or the use, issuance, sale or reloading thereof;

(p) Providing and monitoring the data communication between Galileo and Customer or vendors for reporting purposes and for consolidated transaction processing;

(q) Providing a mechanism for Cardholder dispute resolution;

(r) Providing ID verification services as requested in writing by Customer to assist Customer in meeting its obligations to comply with USA Patriot Act and OFAC and Customer's criteria for "know your customer" requirements; and (s) Providing Cardholder Account information on a daily basis to Customer or third-party for collection process.

Section 2. Galileo System Availability; Service Credits for System Outages.

2.1 Service Levels. Galileo shall ensure that the Galileo System is available as follows:

(a) **Authorization** – Galileo will provide authorization availability meeting or exceeding [**]% excluding Approved Maintenance measured on a calendar month basis.

(b) **Internet Services** – Galileo will provide system-wide availability to internet based applications offered to Customer and cardholders meeting or exceeding [**]% availability excluding Approved Maintenance measured on a calendar month basis.

(c) **IVR** – Galileo will provide system-wide availability to the IVR system meeting or exceeding [**]% excluding Approved Maintenance measured on a calendar month basis.

(d) **Call Center** – If requested by Customer, Galileo will provide customer service with customer service personnel capable of serving English speaking Cardholders to assist Cardholders contacting customer service via phone, fax or in writing with issues or problems related to Transaction Cards and Accounts. If Customer requests other languages to be supported by Galileo, Customer and Galileo shall work in good faith to determine whether Galileo can support such calls and the financial terms under which such other calls would be supported. Provided there are at least [**] live agent calls per day during each month, Galileo will provide call center services meeting an average speed of answer (calendar month average) of [**] seconds on [**]% of the calls and the maximum abandonment rate shall not exceed [**]% of calls on hold for more than [**] seconds. If there are less than [**] calls per day, the average speed of answer (calendar month average) shall be [**] seconds on [**]% of the calls.

2.2 Definitions.

(a) "Approved Maintenance" shall mean Scheduled Maintenance and Emergency Maintenance.

(b) “Emergency Maintenance” shall mean maintenance which falls outside the regularly planned Scheduled Maintenance windows related to security of the Galileo System. Galileo will make commercially reasonable efforts to provide notification by telephone before outages are incurred by Emergency Maintenance. Where appropriate, Emergency Maintenance will be implemented during times of minimal impact.

(c) “Scheduled Maintenance” means routine, scheduled maintenance. Galileo will have outage windows for Scheduled Maintenance every Tuesday between the hours of 12:00 a.m. and 6:00 a.m. Mountain Time. Galileo will provide written notification (which may be delivered via e-mail) forty-eight (48) hours in advance of notice outside of the Scheduled Maintenance window except for Emergency Maintenance. If Customer approves of maintenance outside of the Scheduled Maintenance, such maintenance shall be included in Scheduled Maintenance.

(d) “Monthly Processing Fees” means all Processing Fees under the Event Pricing subheading of **Exhibit C** and the Partner Pricing Customer Service Section of **Exhibit C** billed to Customer during the applicable month.

2.3 Credits. If Galileo fails, during any calendar month to comply with any [**] service levels (“Service Levels”) set forth in Section 2.1 (a “Failed Month”), Customer will be entitled to a credit (“Service Credit”) of [**] to Galileo during such Failed Month. If Galileo experiences a Failed Month, during the next consecutive calendar month, Customer will be entitled to Service Credit of [**] during such second Failed Month. If Galileo experiences a Failed Month, during the third consecutive calendar month, Customer will be entitled to a Service Credit of [**] during such third Failed Month. Notwithstanding anything in this Agreement to the contrary, in no event shall the total cumulative Service Credits for any month exceed [**].

2.4 Termination. Customer shall have the right to terminate the Agreement with no further financial obligation under Section 9.4 of the Agreement upon thirty (30) days’ notice to Galileo, provided Customer provides Galileo written notice within thirty (30) days after the “Termination Event” below has occurred and provided that such termination shall become effective on a date specified by Customer which date shall not be later than six (6) months after Customer’s delivery to Galileo of a written notice of its intention to so terminate this Agreement. Despite such termination, Galileo will continue to be responsible for Deconversion pursuant to Section 4.7 of the Agreement at no further cost to Customer. As used herein, a “*Termination Event*” shall mean:

(a) [**] Failed Months;

(b) [**] Failed Months out of the previous [**] months, regardless of whether such failures occurred in consecutive months; or

(c) [**] Catastrophic Event. For purposes of this Section 2.4, Catastrophic Event shall mean the Galileo System functionality described in Section 2.1(a), (b), or (c) fails to meet or exceed [**]% availability excluding Approved Maintenance measured on a calendar month basis.

2.5 Remedy. Customer and Galileo agree that the Service Credits and termination rights contemplated herein are liquidated damages and that the payment of any such Service Credits or the exercise of the termination right is the exclusive remedy for Galileo’s failure

to meet the requirements of this Section 2 and is in full and final settlement of any claim which Customer may have for losses caused directly by the failure to meet the specific requirements of this Section 2. Upon receipt of the Service Credit or the exercise of the termination right, Customer shall be deemed to knowingly, voluntarily and unconditionally release, acquit and forever discharge, to the maximum extent permitted by applicable law, Galileo and its Affiliates from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, damages, actions, causes of action, costs, damages and expenses (including attorneys' fees and costs actually incurred) of any nature whatsoever, known or unknown, suspected or unsuspected, liquidated or unliquidated, which Customer then has, owns, or holds, or claims to have, own or hold, or which at any time theretofore, had owned or held, or claimed to have owned or held, or which Customer at any time thereafter may have, own, or hold, or claim to have owned or held against Galileo or its Affiliates based upon, arising out of or relating to the Galileo's failure to meet the requirements of this Section 2.

Section 3. Forecasts. Customer will provide Galileo thirty (30) days prior to the period to which it applies, a thirty (30) day rolling marketing forecast, or more frequently as agreed between the parties, which will consist of projections for new Cardholder Account originations and call volume over the following thirty (30) days and in the case of call volume, broken out by daily call volume (the "Monthly Forecast"). Galileo shall use the Monthly Forecast to perform planning services in support of its obligation to maintain the functionality of the Services and perform in accordance with this Agreement. The first seven (7) days of each Monthly Forecast are the Locked Forecast (the "Locked Forecast") and cannot be changed by Customer. If during any day the number of customer service calls received by Galileo does not exceed 80% of the daily projection of customer service calls for such day, then for such day Customer shall pay to Galileo the average call time for the previous month multiplied by the applicable Live Agent Customer Service rate per call for the difference between (x) 80% of the projected number of customer service calls for such day and (y) the actual number of customer service calls received by Galileo for such day; provided, however, that in the event the total number of customer service calls received by Galileo during the calendar month is 90% or more of the projections for such month, Customer will not be required to pay the daily fees specified in this paragraph. By way of example, and for purpose of clarification only, if on a given day, Galileo received 500 customer service calls under the Agreement, Customer projected there to be 750 customer service calls on such day, the average call time for the previous month was four minutes, and all of the calls were being handled domestically, Customer would be required to pay to Galileo [**]((4*[**]) * ((750*80%)-500))) for such day but only if the total number of customer service calls received by Galileo under this Agreement for the applicable month did not meet or exceed the aggregate of 90% of the total number of customer service calls expected pursuant to the forecast for such month.

Section 4. <u>Excuse from Performance</u>. Galileo shall not be responsible for a failure to meet any Service Level to the extent that such failure is directly attributable to, or Galileo's performance is materially hindered by, any of the following:

4.1 Customer's (or a Customer Affiliate's or a third party supplier's) acts, errors, omissions, or breaches of the Agreement;

4.2 Service or resource reductions requested or approved by Customer and agreed to by the parties;

4.3 Cardholder Account volumes exceeding by twenty percent (20%) or more of the monthly new Cardholder Account originations or daily call volume projections in the Monthly Forecast; or

4.4 Any event that would constitute a force majeure event pursuant to the Agreement

Exhibit C

Price Schedule
[**]

Exhibit D

ACH Authorization Form
[**]

Exhibit 10.5

CERTAIN INFORMATION IN THIS DOCUMENT, MARKED BY [**], HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10)(iv). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

EXECUTION COPY

FIRST AMENDMENT TO SERVICE AGREEMENT

THIS FIRST AMENDMENT TO SERVICE AGREEMENT ("Amendment") is entered into as of January 31, 2023 ("First Amendment Effective Date"), by and between **Dave Operating LLC, f.k.a. Dave, Inc.,** a Delaware limited liability company ("Customer"), and **Galileo Financial Technologies, LLC**, a Delaware limited liability company ("Galileo").

A. Customer and Galileo are parties to that certain Service Agreement dated March 18, 2020 (as amended, modified, or supplemented, the "Agreement"). Capitalized terms used herein but not defined have the meanings given to them in the Agreement.

B. Pursuant to Section 12.9 of the Agreement, the Agreement may be amended upon the written approval of Customer and Galileo. Customer and Galileo desire to amend the Agreement as set forth herein.

In consideration of the promises and covenants contained herein and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

1. Amendment.

1.1. Customer and Galileo hereby amend and restate Section 3.2 of the Agreement and replace it with the following:

"**3.2 Exclusivity.**

[**]

1.2. Customer and Galileo hereby amend and restate Section 4.7 of the Agreement and replace it with the following:

"**4.7 Deconversion.** Upon the expiration or termination of this Agreement, Galileo shall provide such Deconversion assistance to Customer as Customer may reasonably request by providing notice to Galileo; provided, however, that in no event shall Galileo be obligated to provide Deconversion with respect to any Customer Accounts until a date which is mutually agreed upon and which is at least sixty (60) days but no more than twelve (12) months after notice delivered by Customer to Galileo requesting such Deconversion in accordance with this paragraph. For the avoidance of doubt, Galileo shall continue to provide Services to Customer and Customer Accounts pursuant to this Agreement until Deconversion is complete as Customer may reasonably request. Except in the event of Deconversion occurring as a result of termination of the Agreement by Customer pursuant to Section 9.2, Customer shall pay Galileo the Development rate per hour set forth for Client Support Services on Exhibit C for resources for each activity completed by Galileo in order to accomplish the Deconversion and for all

reasonable documented costs incurred by Galileo pursuant to the Deconversion statement of work mutually agreed to by the parties, including postage or shipping, of complying with Section 10.1."

1.3.Customer and Galileo hereby amend Section 5.2 of the Agreement by replacing "Salt Lake City, Utah" with "New York City, New York."

1.4.Customer and Galileo hereby insert a new Section 5(c) of the Agreement with the following:

"**(c) The Parties' Indemnification.** An indemnifying party's obligations in this Section 5 are subject to receiving from the indemnified party prompt notice of the relevant claim, action, suit, controversy or proceeding, provided that the failure to give such notice shall not relieve the indemnifying party of its indemnification obligations except to the extent that the indemnifying party is materially prejudiced by such failure. If both parties are negligent or otherwise at fault or strictly liable without fault, then the indemnification obligations hereunder shall be in effect, but each party shall indemnify the other party only for the percentage of responsibility for the damage or injuries attributable to each indemnifying party. Either party as the indemnified party seeking indemnification will promptly notify the indemnifying party of the claim and cooperate with the indemnifying party in defending the claim."

1.5.Customer and Galileo hereby amend and restate Section 6.1 of the Agreement and replace it with the following:

"**6.1 Limitation of Liability.** Notwithstanding anything in this Agreement to the contrary, and except for willful misconduct, gross negligence, and fraud, either party's cumulative liability to the other party for any loss or damage, direct or indirect, for any cause whatsoever (including, but not limited to those arising out of or related to this Agreement) with respect to claims (whether third party claims, indemnity claims or otherwise) relating to events in any one Processing Year shall not under any circumstances exceed the amount of [**] of the Processing Fees paid to Galileo pursuant to this Agreement for Services performed in the immediately preceding [**] month period ending on the date of the event giving rise to the claim, or, in the case of Processing Year 1, [**] of the total Processing Fees collected as of the date such claim is made]."

1.6.Customer and Galileo hereby amend and restate Section 12.2 of the Agreement and replace it with the following:

"**12.2 Notice.** All notices which either party may be required or desire to give to the other party shall be in writing and shall be given by personal service, telecopy, registered mail or certified mail (or its equivalent), or overnight courier to the other party at its respective address or telecopy telephone number or e-mail address set forth below. Mailed notices and notices by overnight courier shall be deemed to be given upon actual receipt by the party notified. Notices delivered by telecopy shall be confirmed in writing by overnight courier and shall be deemed to be given upon actual receipt of the party to be notified. Notices delivered by email with confirmation of receipt (via email or otherwise) shall be deemed to have been given (i) on the date sent if sent before 5:00 p.m. in the time zone of the recipient and (ii) on the next business day immediately following the date sent if sent on or after 5:00 p.m. in the time zone of the recipient.

If to Galileo:

Galileo Financial Technologies, LLC
9800 South Monroe Street, 7th Floor
Sandy, Utah 84070
Attn: CEO
Email: [**]

Galileo Financial Technologies, LLC
P.O. Box 247
Sandy, Utah 84070
Attn: CEO
Email: [**]

With a copy to General Counsel at the same address.

If to Customer:
Dave Operating LLC
1265 South Cochran Avenue
Los Angeles, CA 90019
Attn: CEO
Email: [**]

With a copy to the Legal Department at [**].

A party may change its address set forth above by giving the other party notice of the change in accordance with the provisions of this section."

1.7.Customer and Galileo hereby amend Section 12.11 of the Agreement, by replacing "State of Utah" with "State of New York", and by replacing "Salt Lake City, Utah" with "New York City, New York".

1.8.Customer and Galileo hereby amend and restate Section 8.1 of the Agreement and replace it with the following:

"**8.1 Term.** This Agreement is effective from the Effective Date and shall extend for eight (8) Processing Years (the "Original Term"). "Processing Year 1" began on April 28, 2020 and ended 12 months thereafter. For purposes of this Agreement, each subsequent "Processing Year" means each twelve (12) month period commencing on the expiration of the previous Processing Year in which Services are performed; provided, however, that solely for purposes of Processing Year 3, 'Processing Year' means the period commencing on the expiration of the Processing Year 2 and expiring on the day immediately prior to the First Amendment Effective Date. For clarity, (i) Processing Year 4 shall be the twelve (12) month period commencing on the First Amendment Effective, and (ii) the Original Term shall expire on the date five (5) years from the First Amendment Effective Date."

1.9.Customer and Galileo hereby amend and restate Section 12.17(b) of the Agreement and replace it with the following:

"(b) **Customer Right to Audit**. Customer or its designated representative (provided, for the purposes of this paragraph, such representative is approved in advance by Galileo (such approval not to be unreasonably withheld, conditioned, or delayed) and such representative is subject to confidentiality obligations consistent with Section 10 of this Agreement) shall have the right, upon at least thirty (30) days written advance notice to Galileo, to enter Galileo's facilities (or to conduct a process virtually or otherwise remotely in lieu of physically entering Galileo's facilities) in order to review, inspect, and/or audit records of Galileo related to the provision of Services to Customer pursuant to this Agreement. Customer or its designated representative shall perform such review, inspection and audit at Customer's sole cost and at a time during regular business hours and in a manner reasonably designed to avoid materially impacting Galileo. Galileo shall make all reasonable efforts to comply with requests from Customer or its designated representative to furnish information or access to Galileo's systems for the purpose of completing the review, inspection and/or audit. Such audits will be conducted no more than once in any period of twelve (12) consecutive months, provided, however, that upon the completion of a review, inspection and/or audit that identifies a finding related to an actual impediment to Galileo providing Services in accordance with this Agreement, then Customer and/or its designated representatives shall have the right to review, inspect, and/or audit records of Galileo and Galileo shall cooperate in response thereto, in each case in accordance with this paragraph, a second time in such period of twelve (12) consecutive months to the extent requested to Galileo by Customer in its discretion. Any confidential or proprietary information of Galileo disclosed to an independent audit firm of Customer in the course of an audit will be subject to a confidentiality agreement reasonably acceptable to Galileo to be signed by Galileo and such independent firm prior to the commencement of such audit."

1.10.Customer and Galileo hereby amend and restate the first sentence of the **Recitals** of the Agreement and replace it with the following:

"Customer is engaged in the business of developing, marketing, servicing and supporting debit cards, prepaid cards, ATM cards, and related accounts."

1.11.Customer and Galileo hereby amend **Exhibit A** of the Agreement by adding the following as additional defined terms:

'Transaction Cards and Accounts' means debit cards, prepaid cards, ATM cards and related accounts.

'Customer Monthly Program Revenue' means in a calendar month in relation to all Transaction Cards and Accounts programs all (i) Interchange, (ii) the amount equal to [**] multiplied by the number of ATM cash withdrawals performed by Customer's Cardholders on a debit card, other than those over a surcharge-free network, in such calendar month, and (iii) a portion of new fees assessed to Cardholders in such calendar month associated with any direct activity on the Transaction Card and Account Programs, such portion being negotiated and agreed to by the parties in each instance in good faith. For clarity, subscription fees assessed to Cardholders not associated with direct activity on the Transaction Card and Account Programs do not constitute Customer Monthly Program Revenue. For the period commencing January 1, 2023 through and including the end of the sixth (6th) month of Processing Year 4, the Interchange amount in clause (i) herein shall be self-reported by Customer to Galileo and

evidenced by documentation provided by Customer that is reasonably satisfactory to Galileo.

'Cumulative Galileo Revenue Target' means [**].

'First Amendment Effective Date' means January 31, 2023.

'Galileo Monthly Revenue Share' means for a given calendar month the applicable Galileo Monthly Revenue Share set forth in the Processing Fees: Bundle Event Pricing section of **Exhibit C**.

'Interchange' means all transaction fees paid to the Bank as issuer of the Transaction Card and Account Programs by an acquiring financial institution, as established by an Association less any transaction fees deducted from Bank as issuer of the Transaction Card and Account Programs by an acquiring financial institution, as established by an Association related to return transactions."

1.12 Customer and Galileo hereby amend **Section 2.1 of Exhibit B** of the Agreement as follows:

"**2.1 Service Levels.** Galileo shall ensure that the Galileo System is available as follows:

(a) Authorization - Galileo will provide authorization availability meeting or exceeding [**]% excluding Approved Maintenance measured on a calendar month basis.

(b) Internet Services - Galileo will provide system-wide availability to Internet Services meeting or exceeding [**]% availability excluding Approved Maintenance measured on a calendar month basis. "Internet Services" means internet based applications offered to Customer and Cardholders including without limitation Galileo's Analytics Tool, Galileo's Customer Service Tool, and Galileo's API.

(c) IVR - Galileo will provide system-wide availability to the IVR system meeting or exceeding [**]% excluding Approved Maintenance measured on a calendar month basis.

(d) Call Center - If requested by Customer, Galileo will provide customer service with customer service personnel capable of serving English speaking Cardholders to assist Cardholders contacting customer service via phone, fax or in writing with issues or problems related to Transaction Cards and Accounts. If Customer requests other languages to be supported by Galileo, Customer and Galileo shall work in good faith to determine whether Galileo can support such calls and the financial terms under which such other calls would be supported. Provided there are at least 500 live agent calls per day during each month, Galileo will provide call center services meeting an average speed of answer (calendar month average) of [**] seconds on [**]% of the calls and the maximum abandonment rate shall not exceed [**]% of calls on hold for more than [**] seconds. If there are less than 500 calls per day, the average speed of answer (calendar month average) shall be [**] seconds on [**]% of the calls.

(e) [**]

(f) [**]

(g) Acknowledgement. Notwithstanding anything to the contrary in this Agreement, Customer acknowledges and agrees that Section 2.1(e) and (f) are not considered Service Levels."

1.14 Customer and Galileo hereby amend and restate **Exhibit C** of the Agreement and replace it with the document attached hereto as Schedule 1. The parties acknowledge and agree that the pricing set for the in Schedule 1 shall be effective for Services provided in the full calendar month of the First Amendment Effective Date. By way of example, and for purposes of clarification only, assume the First Amendment Effective Date is January 31, 2023, in such case the pricing of Schedule 1 shall be effective for all Services provided in January 2023 and invoiced in February 2023.

2. Miscellaneous. This Amendment constitutes the entire agreement between Customer and Galileo concerning the subject matter of this Amendment. Except as explicitly amended by this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of this Amendment by telefacsimile shall be equally as effective as delivery of an original executed counterpart of this Amendment.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned hereby acknowledge and certify that as of the First Amendment Effective Date, they are duly authorized to sign on behalf of and legally bind the applicable entity named below by executing this Amendment.

Dave Operating LLC:

By: _/s/ Stav Gil_____

Name: __Stav Gil_____

Its: _VP, Banking Product Management__

Galileo Financial Technologies, LLC:

By: __/s/ Derek White_____

Name: __Derek White_____

Its: ___Chief Executive Officer_

Schedule 1

Exhibit C

Price Schedule

[**]

Exhibit 10.6

CERTAIN INFORMATION IN THIS DOCUMENT, MARKED BY [**], HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10)(iv). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

SECOND AMENDMENT TO
SERVICE AGREEMENT

THIS SECOND AMENDMENT TO SERVICE AGREEMENT ("Amendment") is entered into as of ___5/4/2023_____ ("Second Amendment Effective Date"), by and between **Dave Operating LLC,** a Delaware limited liability company ("Customer"), and **Galileo Financial Technologies, LLC**, a Delaware limited liability company ("Galileo").

A. Customer and Galileo are parties to that certain Service Agreement dated March 18, 2020 (as amended, modified, or supplemented, the "Agreement"). Capitalized terms used herein but not defined have the meanings given to them in the Agreement.

B. Pursuant to Section 12.9 of the Agreement, the Agreement may be amended upon the written approval of Customer and Galileo. Customer and Galileo desire to amend the Agreement as set forth herein.

In consideration of the promises and covenants contained herein and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

1. Credit. Galileo agrees to pay Customer a one-time invoice credit in the amount of [**], which shall be applied against the invoice provided to Customer in May 2023 for Services performed by Galileo in April 2023.

2. Amendment.

2.1.Customer and Galileo hereby amend and restate the [**] line item under the [**]-section of **Exhibit C** of the Agreement and replace it with the following:

[**]

2.2.Customer and Galileo hereby amend and restate the [**] line item under the [**] section of **Exhibit C** of the Agreement and replace them with the following respectively:

[**]

3. Miscellaneous. This Amendment constitutes the entire agreement between Customer and Galileo concerning the subject matter of this Amendment. Except as explicitly amended by this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of this Amendment by telefacsimile shall be equally as effective as delivery of an original executed counterpart of this Amendment.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned hereby acknowledge and certify that as of the Second Amendment Effective Date, they are duly authorized to sign on behalf of and legally bind the applicable entity named below by executing this Amendment.

Dave Operating LLC:

By: _/s/ Stav Gil_____

Name: __Stav Gil_____

Its: _VP, Banking Product Management__

Galileo Financial Technologies, LLC:

By: __/s/ William Kennedy_____

Name: __William Kennedy_____

Its: ___Chief Financial Officer_

Exhibit 10.7

CERTAIN INFORMATION IN THIS DOCUMENT, MARKED BY [**], HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10)(iv). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

THIRD AMENDMENT TO SERVICE AGREEMENT

THIS THIRD AMENDMENT TO SERVICE AGREEMENT ("Third Amendment") is entered into as of _8/13/2024_____ ("Third Amendment Effective Date"), by and between **Dave Operating LLC, f.k.a. Dave, Inc.,** a Delaware limited liability company ("Customer"), and **Galileo Financial Technologies, LLC**, a Delaware limited liability company ("Galileo").

A. Customer and Galileo are parties to that certain Service Agreement dated March 18, 2020 (as amended, modified, or supplemented, the "Agreement"). Capitalized terms used herein but not defined have the meanings given to them in the Agreement.

B. Pursuant to Section 12.9 of the Agreement, the Agreement may be amended upon the written approval of Customer and Galileo. Customer and Galileo desire to amend the Agreement as set forth herein.

In consideration of the promises and covenants contained herein and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

1. Amendment.

1.1.Customer and Galileo hereby amend the [**] section of Exhibit C [**] by inserting the following line item:

[**]

2. Miscellaneous. This Third Amendment constitutes the entire agreement between Customer and Galileo concerning the subject matter of this Third Amendment. Except as explicitly amended by this Third Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. This Third Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of this Third Amendment by telefacsimile or email shall be equally as effective as delivery of an original executed counterpart of this Third Amendment.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned hereby acknowledge and certify that as of the Third Amendment Effective Date, they are duly authorized to sign on behalf of and legally bind the applicable entity named below by executing this Third Amendment.

Dave Operating LLC:

By: ___/s/ Kyle Beilman_____

Name: __Kyle Beilman_____

Its: __Chief Financial Officer____

Galileo Financial Technologies, LLC:

By: __/s/ William Kennedy__

Name: __William Kennedy__

Its: _Chief Financial Officer

Exhibit 10.8

CERTAIN INFORMATION IN THIS DOCUMENT, MARKED BY [**], HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10)(iv). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND IS THE TYPE THAT THE REGISTRANT TREATS AS PRIVATE OR CONFIDENTIAL.

Execution Copy

PCI ADDENDUM TO SERVICE AGREEMENT

THIS PCI ADDENDUM TO SERVICE AGREEMENT (the "Addendum") is entered into as of 10/12/2022 (the "Effective Date"), by and between **Dave Operating LLC, f.k.a. Dave, Inc.** ("Customer"), a Delaware corporation with a principal business address of 1265 S. Cochran Avenue, Los Angeles, California 90292, and **Galileo Financial Technologies, LLC** (Galileo"), a Delaware limited liability company with a principal business address of 9800 South Monroe Street, 7th Floor, Sandy, Utah 84070 as an Addendum to that certain Service Agreement (the "Agreement") between Galileo and Customer dated March 18, 2020. Capitalized terms used herein but not defined have the meanings given to them in the Agreement.

Whereas, the parties wish to amend the Agreement, and as such this Addendum is being entered into for the purpose of modifying the Agreement in the manner and to the extent set forth herein; and

Whereas, Customer wishes to receive from Galileo certain sensitive data, including but not limited PAN, CVV, and expiration date ("Data"), subject to the Payment Card Industry Data Security Standard ("PCI DSS") promulgated by the PCI Security Standards Council;

The parties agree as follows:

Agreement

1.Customer hereby acknowledges and agrees that any such Data it receives pursuant to this Addendum shall be subject to Customer's then existing PCI DSS and shall be within the scope of Customer's PCI audits going forward. Customer shall declare in its next PCI audit its receipt and use of such Data, including how it transmits, stores, or processes such Data.

2.Customer acknowledges and agrees that certification of such PCI DSS compliance shall be performed by a third-party assessor at all times Galileo is providing the Data to Customer.

3.Customer hereby acknowledges and agrees that it is responsible for the security of the Data it possesses, including the functions relating to storing, processing, and transmitting of the Data.

4.Customer shall purge any Data from its systems immediately after it no longer has a business purpose to store such Data.

5. Indemnification.

a. Subject to the limitations contained in this Section 5 of this Addendum, Customer shall indemnify and hold harmless Galileo and its directors, officers, employees, agents and affiliates from and against any and all third party claims, liabilities, losses and damages (including reasonable attorney fees, expert witness fees, expenses and costs of settlement) arising out of or with respect to the Addendum or the Agreement to the extent Customer breaches its obligations to keep the Data secure.

b. Notwithstanding anything to the contrary, except for willful misconduct, gross negligence, and fraud, Customer's cumulative liability for any loss or damage, direct or indirect, for any cause whatsoever with respect to claims (whether third party claims, indemnity claims or otherwise) relating to this Addendum shall under any circumstances exceed
[**] in the aggregate.

6.Galileo acknowledges that the Customer was party to a Merger Agreement dated on or about January 5, 2022, whereby "Dave Operating LLC" is the surviving entity of the transactions contemplated therein, such that all references to Customer hereinafter refer to "Dave Operating LLC".

7.This Addendum constitutes the entire agreement between Customer and Galileo concerning the subject matter of this Addendum. Except as explicitly modified by this Addendum, all of the terms and conditions of the Agreement shall remain in full force and effect. This Addendum may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of this Addendum by telefacsimile shall be equally as effective as delivery of an original executed counterpart of this Addendum. This Addendum is governed by and must be construed under the laws of the State of Utah.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Addendum is executed effective as of the Effective Date.

Dave Operating LLC:	**Galileo Financial Technologies, LLC:**
By: /s/ Kyle Beilman	By: /s/ William Kennedy
Name: Kyle Beilman	Name: William Kennedy
Title: Chief Financial Officer	Title: Chief Financial Officer

DAVE INC.
NON-EMPLOYEE DIRECTOR COMPENSATION POLICY AMENDED AND RESTATED: April 24, 2024

Each member of the Board of Directors (the "***Board***") of Dave Inc. (the "***Company***") who is not an employee of the Company (each such member, an "***Outside Director***") will receive the compensation described in this Non-Employee Director Compensation Policy (the "***Director Compensation Policy***"), as amended, for his or her Board service following the date this Director Compensation Policy was originally adopted effective as of January 5, 2022 (the "***Original Effective Date***").

The Director Compensation Policy may be amended at any time in the sole discretion of the Board.

Annual Cash Compensation

Each Outside Director will receive the cash compensation set forth below for service on the Board. The annual cash compensation amounts will be payable in arrears, in equal quarterly installments following the end of each fiscal quarter of the Company in which the service occurred. Any amount payable for a partial quarter of service will be pro-rated by multiplying such amount by a fraction, the numerator of which will be the number of days of service that the Outside Director provided in such quarter and the denominator of which will be the number of days in such quarter inclusive. All annual cash fees are vested upon payment.

1. Annual Board Member Service Retainer:
   a. All Outside Directors: **$40,000**.
   b. Outside Director serving as Chairperson: **$30,000** (in addition to above).
   c. Outside Director serving as Lead Independent Director: **$22,000** (in addition to above).

2. Annual Committee Member Service Retainer:
   a. Member of the Audit Committee: **$10,000**.
   b. Member of the Compensation Committee: **$7,000**.
   c. Member of the Nominating and Corporate Governance Committee: **$4,500**.

3. Annual Committee Chair Service Retainer (in lieu of Annual Committee Member Service Retainer):
   a. Chairperson of the Audit Committee: **$20,000**.
   b. Chairperson of the Compensation Committee: **$14,000**.
   c. Chairperson of the Nominating and Corporate Governance Committee: **$9,000**.

Equity Compensation

Equity awards will be granted under the Company's 2021 Equity Incentive Plan or any successor equity incentive plan adopted by the Board and the stockholders of the Company (the "***Plan***").

(a)Automatic Annual Grant for Outside Directors. Without any further action of the Board, at the close of business on the date of each annual meeting of the Company's stockholders (an "***Annual Meeting***") following the Original Effective Date, each Outside Director who has served as a member of the Board since December 31st of the calendar year prior to such Annual Meeting shall be granted restricted stock units under the Plan covering shares of Class A Common Stock of the Company (each, a "***Share***") having an RSU Value of **$165,000** (a "***Annual RSU Award***"); provided that the number of Shares covered by each Annual RSU Award will be rounded down to the nearest whole Share. Each Annual RSU Award shall vest in full on the earlier to occur of (i) the next Annual Meeting or (ii) the one-

year anniversary of the date of grant, subject to the applicable Outside Director's continued service as a member of the Board through such date.

(b)Vesting; Change in Control. All vesting is subject to the Outside Director's continued service as a member of the Board through each applicable vesting date. Notwithstanding the foregoing, for each Outside Director who remains in continuous service as a member of the Board until immediately prior to the closing of a "***Change in Control***" (as defined in the Plan), any unvested portion of any restricted stock unit award granted in consideration of such Outside Director's service as a member of the Board shall vest in full immediately prior to, and contingent upon, the consummation of the Change in Control.

(c)Calculation of RSU Value. The "***RSU Value***" of a restricted stock unit award to be granted under this policy will equal the number of Shares subject to the restricted stock unit award multiplied by the average closing price of a Share on the stock exchange or a national market system on which the Shares are listed over the 30 trading days preceding the grant date.

(d)Discretionary Grants. In addition to the automatic grants described herein, the Board, in its sole discretion, may grant additional equity awards to certain Outside Directors for services to the Company that exceed the standard expectations of an Outside Director or for other circumstances determined appropriate by the Board, including, without limitation, an inducement for the Outside Director to remain on the Board or an initial grant for an individual to become an Outside Director.

(e)Remaining Terms. The remaining terms and conditions of each restricted stock unit award granted under this policy will be as set forth in the Plan and the Company's standard form of restricted stock unit award agreement, as amended from time to time by the Board or the Compensation Committee of the Board, as applicable.

Expenses

The Company will reimburse each Outside Director for ordinary, necessary and reasonable out-of-pocket travel expenses to cover in-person attendance at, and participation in, Board and committee meetings; *provided*, that the Outside Director timely submits to the Company appropriate documentation substantiating such expenses in accordance with the Company's travel and expense policy, as in effect from time to time.

Exhibit 31.1

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Jason Wilk, certify that:

1) I have reviewed this Quarterly Report on Form 10-Q for the quarter ended September 30, 2024 of Dave Inc.;

2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4) The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5) The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 12, 2024

/s/ Jason Wilk
Chief Executive Officer
(principal executive officer)

Exhibit 31.2

CERTIFICATION PURSUANT TO
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Kyle Beilman, certify that:

1) I have reviewed this Quarterly Report on Form 10-Q for the quarter ended September 30, 2024 of Dave Inc.;

2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4) The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5) The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 12, 2024

/s/ Kyle Beilman
Chief Financial Officer
(principal financial officer)

EXHIBIT 32.1

CERTIFICATIONS PURSUANT TO
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

The undersigned, Jason Wilk, Chief Executive Officer, and Kyle Beilman, Chief Financial Officer of Dave Inc. (the "Company"), hereby certify as of the date hereof, solely for the purposes of 18 U.S.C. §1350, that:

(i) the Quarterly Report on Form 10-Q for the period ended September 30, 2024 of the Company (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company at the dates and for the periods indicated.

Date: November 12, 2024

/s/ Jason Wilk
Chief Executive Officer

/s/ Kyle Beilman
Chief Financial Officer

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure document.