

TERMS AND CONDITIONS

Effective Date: Dec. 2019

PLEASE READ THESE TERMS AND CONDITIONS (“TERMS”) CAREFULLY. BY ACCESSING OUR SITE OR USING THE SERVICES, YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE TO THESE TERMS, YOU SHOULD IMMEDIATELY CEASE USING THE SITE.

Privacy

The disclosures contained in Balance Credit’s [Privacy Notice](#) apply to our use of your personal information as a financial institution. A description of Balance Credit’s collection, use, and sharing of your personal information by accessing our Site are contained in our Site Privacy Policy. The Site Privacy Policy is incorporated by reference in these Terms. By using the Site, you are also consenting to the Privacy Policy. Additionally, by using the Site, you acknowledge and agree that Internet transmissions are never completely private or secure. You understand that any message or information you send to the Site may be read or intercepted by others, notwithstanding Balance Credit’s efforts to protect such transmissions.

Intellectual Property

The contents of this Site, including its look and feel (e.g., text, graphics, images, logos and button icons), photographs, editorial content, notices, software (including html-based computer programs) and other material are protected under United States copyright, trademark, and other intellectual property laws. The contents of the Site belong or are licensed to Balance Credit or its software or content suppliers. We grant you the right to view and use the Site subject to these Terms. You may download or print a copy of information provided on the Site for your personal, non-commercial use only. Any distribution, reprint electronic reproduction, or other commercial use of any content from this Site, in whole or in part, for any other purpose, is expressly prohibited without our prior written consent. We neither represent nor warrant that your use of materials displayed at the Site will not infringe rights of third parties. Additionally, you agree that you (i) will not remove or alter any author, trademark, other proprietary notice, or legend displayed on the Site (or printed pages produced from the Site), and (ii) will not make any other modifications to any documents obtained from the Site other than in connection with completing information required to transact business with Balance Credit.

While we use reasonable efforts to include accurate and up-to-date information at the Site, we make no warranties or representations as to the Site’s accuracy. You understand that by posting materials on the Site or otherwise providing materials to Balance Credit, you are granting to Balance Credit a royalty-free, perpetual, irrevocable license to use this information in the course of offering our Services. Furthermore, you understand that we retain the right to reformat, excerpt, or translate any materials submitted by you. You understand that all information publicly posted or privately transmitted through the Site is the sole responsibility of the person from whom such content originated and that we will not be liable for any errors or omissions in any content.

Site Security

As a condition of your use of this Site, you agree that you will not take any action intended to: (i) access data that is not intended for you; (ii) invade the privacy of, obtain the identity of, or obtain any personal information about any Balance Credit or user of this Site; (iii) probe, scan, or test the vulnerability of this Site or the Balance Credit network or breach security or authentication measures without proper authorization; (iv) attempt to interfere with service to any user, host, or network or otherwise attempt to disrupt our business, including, without limitation, via means of submitting a virus to this Site, overloading, “flooding,” “spamming,” “mail bombing,” or “crashing”; or (v) send unsolicited mail, including promotions and/or advertising of products and services. Violations of system or network security may result in civil or criminal liability. While we use reasonable efforts to safeguard the security of the Site, there can be no guaranty that such safeguards will successfully prevent unauthorized alterations in the content or functionality of the Site. We assume no liability or responsibility for any unauthorized alterations in the content or functionality of the Site.

Balance Credit makes no warranty whatsoever to you, express or implied, regarding the security of the Site, including with respect to the ability of unauthorized persons to intercept or access information transmitted by you through the Site. To protect the security of your information, Balance Credit may require you to authenticate your identity (i.e., prove that you are who you say you are) when you use the Site. You acknowledge and agree that you are solely responsible for maintaining the security of your devices. Balance Credit is not responsible for any losses resulting from the loss or theft of your device, the loss or theft of your information transmitted from or stored on your devices, or any losses arising from the use of your device by someone whom you have given access. You are required to notify us of any unauthorized use of the Site by contacting us at support@balancecredit.com.

Minors

This Site is not directed at children under the age of eighteen (18) and we do not knowingly collect personal information at this Site from any child under the age of eighteen (18).

Consent to Be Contacted

By submitting your contact information to us, you are expressly consenting to be contacted by us (and our affiliates, agents, assigns, and service providers) by telephone, email, or postal mail even if you have opted into the national Do Not Call List administered by the Federal Trade Commission, any state equivalent Do Not Call List or the Do Not Call List of any specific institution. We may contact you for application and loan servicing, including without limitation, for matters related to your loan or application, such as to remind you of upcoming payments, or for collections and other loan-related issues. By submitting your contact information, registering for an account, applying for a Service, or beginning an application for a Service, you consent to be contacted by written notices; SMS messages (including text messages); telephone at any telephone number associated with your account you provide now or in the future, including cellular phones, wireless telephone numbers, or other wireless devices, and in connection with any such telephone calls, you consent to the use of prerecorded/artificial voice messages and/or automatic dialing

devices, at any telephone number associated with your account, including mobile telephone numbers that could result in charges to you for matters related to your loan or application, such as reminding you of upcoming payments, collections, and other loan-related issues; email notices at any email address or mailing address we have for you in our records or from other public and nonpublic databases that we may lawfully access. Where allowed by law, we also may contact other individuals who may be able to provide updated employment, location, and contact information for you. You hereby further consent that we may utilize third party service and other providers for the purposes of contacting you on our behalf in accordance with the Terms. You may change your contact preferences by contacting us at (855) 942-2526.

Content Submitted or Made Available for Inclusion at the Site

Balance Credit's policy is to not accept or review unsolicited ideas or suggestions from persons outside the company. Notwithstanding such policy, any ideas, suggestions, knowhow, comments, questions, or concepts that are offered or communicated to Information gathered through this Site or otherwise shall become the property of Balance Credit and may be treated by Balance Credit as non-confidential and non-proprietary. We shall have the unrestricted right to use and disclose such ideas, suggestions, know-how, comments, questions, or concepts for any purpose without compensation or obligation to any party.

Sweepstakes & Other Promotions

From time to time, BalanceCredit may conduct promotions on or through the Site, including without limitation, contests, sweepstakes, and other promotions ("Promotions"). Each Promotion may have additional terms and/or rules of participation ("Promotion Rules"), which will be posted or otherwise made available to you. The Promotion Rules for each Promotion in which you participate will be deemed incorporated into and form a part of these Terms for the Promotions. It is your responsibility to read the Promotion Rules to determine whether or not your participation, registration, or entry will be valid or restricted, and to determine your participation requirements.

Conduct of Site Visitors

Although we may from time to time monitor or review postings, transmissions, and the like on the Site (collectively, "Communication(s)"), we are under no obligation to do so and assumes no responsibility or liability arising from the content of any Communications, nor for any error, defamation, libel, slander, omission, falsehood, obscenity, pornography, profanity, danger, or inaccuracy contained in any Communication on the Site. You are prohibited from posting or transmitting any unlawful, threatening, libelous, defamatory, obscene, scandalous, inflammatory, pornographic, or profane material or any material that could constitute or encourage conduct that would be considered a criminal offense, give rise to civil liability, or otherwise violate any law, regulation, rule or ordinance. We retain the right to remove any such posting and will fully cooperate with any law enforcement authorities or court order requesting or directing Balance Credit to disclose the identity of anyone posting any such information or materials.

Your use of the Site is limited to the intended function of the Site. Unauthorized use of the Site and systems, including but not limited to unauthorized entry into Balance

Credit's systems or misuse of any information posted on the Site, is strictly prohibited.

You may not use the Site in a manner that: (a) is unlawful, fraudulent, or deceptive;

(b) encourages conduct that would constitute a criminal offense or that gives rise to civil liability;

(c) violates the Terms or any other Balance Credit policies;

(d) fails to comply with applicable third-party terms; or

(e) constitutes any other inappropriate conduct, as determined by us in our sole discretion.

If you violate any provision of these Terms, your permission to use the Site and Services will terminate. Additionally, we, in our sole discretion may terminate your user account or suspend or terminate your access to the Services at any time, with or without notice.

Dealings with Advertisers

Your correspondence or business dealings with, or participation in promotions of, advertisers found on or through the Site, including payment and delivery of related goods or services, and any other terms, conditions, warranties, or representations associated with such dealings, are solely between you and such advertiser. You agree that Balance Credit shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such advertisers on the Site. Any and all offers or promotions advertised on this Site are void where prohibited, and are subject to the posting of any official rules pertaining to such offers or promotions. It is also essential that users review the laws and regulations of the state they reside in prior to participating in any promotions advertised on this Site.

Links to Other Web Sites and Services

This Site may contain links to sites maintained by third parties. We are not responsible for the content of those sites, and the existence of such links should not be considered an endorsement or recommendation of those sites or of any party who is associated with those sites. Please note that other websites and web pages linked to this Site may be governed by separate terms and conditions, including privacy policies. Please refer to the applicable terms and conditions of those websites and web pages when visiting them.

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This Site is not intended for use by persons in any jurisdiction or country where such use would be contrary to applicable laws or regulations. We may restrict your access to the Site during times you are in a country other than the United States. You are responsible for compliance with all local laws.

None of the products or underlying information or technology available at this Site may be downloaded or otherwise exported (i) to (or to a national or resident of) any country to which the United States has embargoed goods; or (ii) to anyone on the United States Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders. By downloading from, or using the Site, you represent and warrant that you are not located in, under the control of, or a national or resident of any such country or on any such list. You further agree to indemnify Balance Credit against any and all costs,

liabilities, losses, or expenses arising from, or relating to, any asserted violation by you of any of the laws and administrative regulations of the United States relating to the control of exports of commodities and technical data.

DISCLAIMERS OF WARRANTIES THE INFORMATION AND MATERIALS CONTAINED ON THIS SITE ARE PROVIDED “AS IS” AND WITHOUT ANY WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR ACCURACY. ADDITIONALLY, WE DO NOT WARRANT THAT THE SITE IS FREE FROM HARMFUL VIRUSES. WE MAY AMEND OR MODIFY THE CONTENT OF THIS SITE WITHOUT NOTICE TO YOU OR ANY LIABILITY TO YOU. YOU USE THIS SITE AT YOUR OWN RISK AND YOU ASSUME TOTAL RESPONSIBILITY FOR YOUR USE OF THE SITE AND ANY LINKED SITES.

At times you may experience difficulty accessing the Site, communicating with Balance Credit through the Internet, or other electronic wireless services as a result of high Internet traffic, transmission problems, systems capacity limitations, or other problems. Any computer system or other electronic device, whether it is yours, an Internet service provider's, or Balance Credit's, can experience unanticipated outages or slowdowns or have capacity limitations. Balance Credit is not responsible for failure or delay of performance caused by such problems.

LIMITATIONS OF LIABILITIES UNDER NO CIRCUMSTANCES WILL BALANCE CREDIT, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, SUCCESSORS, OR ASSIGNS BE LIABLE TO YOU FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, COST OF PROCURING SUBSTITUTE SERVICE, OR LOST OPPORTUNITY, EVEN IF BALANCE CREDIT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER IN AN ACTION IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF THE SITE, ANY LINKED SITE, OR RESULTING FROM A DELAY OR INABILITY TO USE THE SITE OR A LINKED SITE. UNLESS OTHERWISE EXPRESSLY SET FORTH IN A WRITTEN AGREEMENT WITH YOU, BALANCE CREDIT’S MAXIMUM LIABILITY FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THIS SITE OR ITS CONTENT SHALL BE LIMITED TO THE AMOUNT YOU PAID TO ACCESS THE SITE.

Indemnity

By using the Site, you agree to defend, indemnify, and hold harmless Balance Credit from and against any and all losses, claims, damages, costs and expenses (including but not limited to reasonable legal and accounting fees) that we may incur arising or resulting from your use of this Site, the content of the Site, or your breach of these Terms. We reserve the right to assume or participate, at your expense, in the investigation, settlement, and defense of any such action or claim.

Additional Terms

Certain features or Services available through the Site may be subject to additional terms, which will be presented to you at that time. In the event of a conflict between these Terms and such additional terms, the additional terms will govern solely with respect to such features and Services. Such additional terms are expressly incorporated into and made part of these Terms.

Modifications

We may, from time to time, make modifications, changes, or additions to these Terms. You agree that your continued use of the Site or Services following the posting of such changes is your acceptance of such changes.

We also reserve the right to modify or discontinue the Site or Services at any time (including by limiting or discontinuing certain features of the Service) without notice to you. We will have no liability whatsoever on account of any change to the Site or Services or any suspension or termination of your access to or use of the Site or Services. You may terminate your account at any time by contacting customer service at support@balancecredit.com. If you or we terminate your account, you will remain obligated to pay all outstanding amounts owed to us or on your line of credit, if any, relating to your use of Site or the Services incurred prior to termination.

Arbitration

Balance Credit's relationship with you is governed by applicable federal and state laws as stated in your loan agreement ("Agreement"), except the Federal Arbitration Act 9 U.S.C Sections 1-16 ("FAA") governs the Jury Trial Waiver and Arbitration Clause in your Agreement. We will resolve any complaint lodged, filed or otherwise submitted by you or on your behalf in a manner that is consistent with the Agreement. If you have concerns about the operation of any part of Balance Credit or otherwise believe yourself to be aggrieved by some aspect of the operation of any part of Balance Credit's services, you agree that you shall direct your concerns or dispute in the first instance to Balance Credit's management, either orally or in writing. In the event you are dissatisfied with Balance Credit's initial determination, you may mail us notice, within 15 days of the dispute date. In your notice, tell Balance Credit the details and how you want to resolve it. We will try to resolve the Dispute. If we make a written offer ("Settlement Offer"), you can reject it and arbitrate. If we don't solve the Dispute, either party may start arbitration. To start arbitration, contact an Arbiter or arbitration group listed in your Agreement. No party will disclose settlement proposals to the Arbiter during arbitration. You may send written notice via mail to: SunUp Financial, LLC d/b/a Balance Credit, P.O. Box 4356 Dept #1557, Houston, TX 77210. You can call us or use certified mail to confirm receipt. Additionally, by the continued use of this Site, you agree that all claims, demands, disputes or controversies between you and Balance Credit (its employees, officers, directors, members, agents or assigns), including disputes regarding the scope and validity of this section, and any loan you have had in the past, any loan you may now have, or any loan you may obtain in the future, shall be subject to the Jury Trial Waiver and Arbitration Clause in your Agreement as provided above and in the Agreement. You agree that YOU ARE WAIVING YOUR RIGHT TO HAVE A TRIAL BY JURY. This agreement shall apply to all claims, whether under common law or pursuant to federal, state

or local statute, regulation or ordinance, or for claims of fraud, misrepresentation or collection on the loan, and you specifically waive your right to bring, join or participate in any class action lawsuit in any federal court.

YOU AND BALANCE CREDIT WOULD HAVE HAD A RIGHT OR OPPORTUNITY TO LITIGATE DISPUTES THROUGH A COURT AND HAVE A JUDGE OR JURY DECIDE THE DISPUTE(S) BUT HAVE AGREED INSTEAD TO RESOLVE ANY DISPUTE(S) THROUGH ARBITRATION

Finally, to the extent permitted by applicable state and federal law, you agree that you will not bring, join or participate in any class action as to any claim, dispute or controversy you may have against us, our employees, officers, directors, servicers and assigns. You agree to the entry of injunctive relief to stop such a lawsuit or to remove you as a participant in the suit. **YOU THEREFORE AGREE AND ACKNOWLEDGE THAT YOU ARE WAIVING YOUR RIGHT TO INITIATE OR PARTICIPATE IN A CLASS ACTION RELATED TO THIS AGREEMENT OR THE USE OF THIS SITE.**

You agree to pay any attorneys' fees and court costs we might incur in seeking such relief.

The Terms are governed by and construed in accordance with the laws of the State of Illinois excluding choice-of-law provisions of Illinois law that would result in the laws of any state or country other than Illinois being applied. The state courts in Cook County, Illinois have general jurisdiction and will be the exclusive venue for litigating any claims, actions, or proceedings related to the Site, Terms, or any other Balance Credit policies or terms and conditions. Any such cause of action you may have must be commenced within one (1) year after the claim or cause of action arises, or such claim or cause of action shall be barred.

Miscellaneous

If any portion of these Terms is deemed unlawful, void, or unenforceable by any arbitrator or court of competent jurisdiction, the Terms as a whole shall not be deemed unlawful, void, or unenforceable, but only that portion that is unlawful, void, or unenforceable shall be stricken from these Terms. You agree that if we do not exercise or enforce any legal right or remedy which is contained in the Terms (or which we have the benefit of under any applicable law), this will not be taken to be a formal waiver of Balance Credit's rights and that those rights or remedies will still be available to Balance Credit. All covenants, agreements, representations, and warranties made in these Terms shall survive your acceptance of the Terms and the termination of the agreement(s) contained herein. These Terms represent the entire understanding and agreement between you and Balance Credit regarding your use of the Site and supersede all other previous agreements regarding same.

CONTACT US

If you have any questions regarding these Terms, these should be directed to support@balancecredit.com.