



Marcus by Goldman Sachs® Terms of Use

Last Modified: February 6, 2021

PLEASE READ THESE TERMS OF USE CAREFULLY. THESE TERMS ARE SUBJECT TO CHANGE. ANY CHANGES WILL BE INCORPORATED INTO THE TERMS POSTED TO THE SERVICE FROM TIME-TO-TIME. IF YOU DO NOT AGREE TO THESE TERMS OR ANY MODIFIED VERSION, STOP USING THE SERVICE IMMEDIATELY.

BY USING OR ACCESSING THE SERVICE, YOU AFFIRM YOU ARE AT LEAST 18 YEARS OF AGE.

SECTION 19 APPLIES ONLY TO INSIGHTS USERS AND REQUIRES CLAIMS TO BE ARBITRATED AND FORBIDS CLASS ACTIONS UNLESS YOU EXERCISE YOUR RIGHT TO REJECT ARBITRATION UNDER SECTION 19.F BY PHONE OR MAIL WITHIN NINETY DAYS AFTER YOU ENROLL AS AN INSIGHTS USER.

TABLE OF CONTENTS

SECTION 1. DEFINITIONS..... 1

SECTION 2. GENERAL..... 2

SECTION 3. CHANGES 2

SECTION 4. ELIGIBILITY 2

SECTION 5. REQUIREMENTS..... 3

SECTION 6. LICENSE..... 3

SECTION 7. PRODUCT AND THIRD PARTY SERVICE TERMS..... 3

SECTION 8. TERMS SPECIFIC TO ACCOUNT LINKING 5

SECTION 9. USER CONTENT..... 6

SECTION 10. INFORMATION MADE AVAILABLE THROUGH THE SERVICE OR THIRD PARTY SITES 7

SECTION 11. ACCEPTABLE USE 7

SECTION 12. TERMINATION 8

SECTION 13. PROTECTING YOUR DEVICES AND USER ACCOUNT 8

SECTION 14. WARRANTIES; DISCLAIMERS..... 8

SECTION 15. NO LIABILITY 9

SECTION 16. SYSTEM OUTAGES, SLOWDOWNS AND CAPACITY LIMITATIONS..... 9

SECTION 17. MARKS, APPLICATION AND CONTENT..... 9

SECTION 18. DMCA NOTICE - HOW TO PROVIDE NOTICE OF ALLEGED COPYRIGHT INFRINGEMENT 9

SECTION 19. DISPUTE RESOLUTION; AGREEMENT TO ARBITRATE; CLASS ACTION WAIVER 10

SECTION 20. NEW JERSEY STATE DISCLOSURE 12

SECTION 21. ADDITIONAL TECHNOLOGY..... 12

SECTION 22. SEVERABILITY / NO WAIVER 12

SECTION 23. APPLICABLE LAW..... 12

SECTION 24. FILTERING 12

SECTION 25. ACCESSIBILITY..... 13

SECTION 26. CONTACT US 13

SECTION 27. EXPORT CONTROLS 13

SECTION 28. APPLE-SPECIFIC TERMS..... 13

SECTION 29. PATRIOT ACT 14

SECTION 1. DEFINITIONS

“App” means the Marcus by Goldman Sachs mobile app (together with any Products and Third Party Services available therein, and any related or successor app(s) thereto).

“Goldman Sachs,” “we,” “us” or “our” means Goldman Sachs Bank USA and its affiliates, agents and assigns worldwide, including Goldman Sachs & Co. LLC (“GS&Co.”).

“Notice Address” means Marcus by Goldman Sachs, P.O. Box 45400, Salt Lake City, UT 84145-0400.

“Products” means the Online Savings Accounts and Certificate of Deposit Accounts (each an “Account”), loans, Advisory Accounts offered through Invest (each as defined in Section 7.a.3), Insights (as described in Section 7.a.4) and other financial

education information and materials, and any other products or services provided through the Service, including any application or information relating to such products or services. The term "Products" does not include Third Party Services offered through the Service.

"Service" means the App together with the Site.

"Site" means the Marcus by Goldman Sachs site currently located at <https://www.marcus.com> (together with any Products and Third Party Services available therein, and any related or successor website(s) thereto, including blogs, forums or other discussion or informational websites).

"Terms" means these Terms of Use, including any additional terms and conditions made available by us through the Service, or otherwise made available to you by us.

"Third Party Services" means those products and services provided by a third party provider that we may make available to you through the Service.

"You" or "your" means any user of the Service.

When the word "including" or "includes" are used in these Terms they mean "including but not limited to" or "includes but is not limited to."

SECTION 2. GENERAL

- a. By downloading the App, accessing and/or using the Service, you are agreeing to these Terms. These Terms apply to any use by you of the Service. For example, these Terms apply: (1) when you download the App to a device, even if you don't register to use the App; (ii) when you access or use the Service on a computer or device, even if you don't register to use the Service; (iii) when you register as a user of the Service; or (iv) when you sign up for one or more Products or Third Party Services. If you sign up for a Product or Third Party Service, you may be required to acknowledge and agree to be bound by additional terms and policies for that Product or Third Party Service. To the extent there is a conflict between these Terms and the terms of any Product or Third Party Service, the terms of the Product or Third Party Service will govern.
- b. You agree to provide accurate, current and complete information when you register as a user of the Service and when you sign up for a Product or Third Party Service. You further agree to promptly update Your Personal Information (defined below) when it changes.
- c. Some functionality of the Service (including Third Party Services) will involve the collection and transmission of information that personally identifies you (including information that we obtain directly from your computer or device) or your Account Information (as defined in Section 8) (collectively "**Your Personal Information**"). Please review our [Privacy Policy](#) and [Privacy Notice](#) and any privacy notice or disclosure relating to the Product or Third Party Service you apply for or obtain through the Service for more information about how we or our third party providers collect, use and share Your Personal Information.
- d. Your email address will be your user ID and your password will be one or more authentication devices (including alphanumeric codes) associated with such user ID that we may require for access to the Service. We reserve the right to terminate, suspend, or change any user ID(s) or password(s) at any time with or without notice.
- e. We may offer the option to log into the App using biometric authentication, including facial and fingerprint recognition. You can turn this feature on or off via the settings menu within the App. Biometric information is stored on your device only, and we never see your biometric information. You acknowledge and agree that by enabling biometric authentication, you will allow anyone who has biometric information stored on your device access to the Service on the App. We reserve the right to suspend or disable this feature at any time.

SECTION 3. CHANGES

We reserve the right, at any time without notice to you and in our sole discretion, to change or discontinue all or any portion of the Service, the availability of any Products or Third Party Services, or these Terms. We may modify these Terms from time-to-time by notifying you of such modifications by any reasonable means, including by posting revised Terms through the Service. Continued access to or use of the Service or the applicable Products or Third Party Services following such modifications constitutes your acceptance of those modifications. Any such modifications will not apply to any dispute between you and us arising prior to the date on which we posted the revised Terms incorporating such changes, or otherwise notified you of such modifications.

SECTION 4. ELIGIBILITY

Any natural person using the Service must be at least 18 years of age. The Service may only be used in the United States, including its territories, or on a United States military base. The Service is controlled or operated (or both) from the United

States, and is not intended to subject us to any non-U.S. jurisdiction or law. The Service may not be appropriate or available for use in some non-U.S. jurisdictions. Any use of the Service is at your own risk, and you must comply with all applicable laws, rules and regulations in doing so. We may limit the Service's availability at any time and without notice, in whole or in part, to any person, geographic area or jurisdiction that we choose.

SECTION 5. REQUIREMENTS

To use the Service and to view documents presented in connection with certain of our Products, you will need:

- a. A Current Version (defined below) of an Internet browser we support or a Current Version of the App;
- b. A connection to the Internet;
- c. A Current Version of a program that accurately reads and displays PDF files (which may be either a browser that supports native PDF rendering or a program such as Adobe Acrobat Reader); and
- d. A computer or electronic device and an operating system capable of supporting all of the above ("**Your Device**").

By "**Current Version**," we mean a version of the software that we support and that is currently being supported by its publisher or the applicable platform (e.g., Apple's iOS). We support the Current Version and, for a period of time (at least three months), the version immediately prior to the Current Version of Firefox, Google Chrome, Microsoft Edge, Safari, iOS and Android.

As permitted by and in accordance with applicable law, we reserve the right to discontinue support of a Current Version of software for any reason, including our opinion that it suffers from a security or other flaw that makes it unsuitable for use with the Service.

If you make unauthorized modifications to Your Device, such as by disabling hardware or software controls (for example, through a process sometimes referred to as "jailbreaking"), or use a virtual private network, Your Device may no longer be eligible to access or use the Service and we reserve the right to deny or limit your access to the Service and to assert any other remedies available to us under these Terms.

SECTION 6. LICENSE

The Service is licensed (not sold) to end users. Subject to these Terms, we grant to you a non-exclusive, non-transferable, limited and revocable license to access the Service for your own use and **not** for any commercial or business purpose, except as relates to relationships between you and us ("**Your License**").

SECTION 7. PRODUCT AND THIRD PARTY SERVICE TERMS

- a. We may, from time-to-time and subject to these Terms, make Products available to you through the Service, including the features and services described below. The Service may provide Product listings, descriptions and images of goods or services or related coupons or discounts, as well as references and links to such Product. Products may be made available for any purpose, including general informational purposes.
 1. Personal and Business Loans. All personal and business loan Products provided through the Service are issued by Goldman Sachs Bank USA, Salt Lake City Branch.
 - i. *No Use of Proceeds for Student Loan Purposes*. You may not use the proceeds of any personal loan Product provided through the Service for education-related expenses or to refinance your student loans. Examples of education-related expenses may include tuition and fees, books, supplies, miscellaneous personal expenses or room and board.
 - ii. *California Residents*. A married applicant may apply for a separate loan.
 - iii. *Ohio Residents*. The Ohio laws against discrimination require that all creditors make credit equally available to all creditworthy customers and that credit reporting agencies maintain separate credit histories on each individual upon request. The Ohio Civil Rights Commission administers compliance with this law.
 - iv. *Married Wisconsin Residents (consumer-purpose products only)*. If you are married, you confirm that any loan application you make is made on behalf of your marriage or family. If you are married and the consumer loan product for which you are applying is subject to the Wisconsin Consumer Act, you confirm that (1) no provision of a marital property agreement, unilateral agreement, or court decree under Wisconsin's Marital Property Act will adversely affect our interest unless, prior to the time credit is granted, we are furnished a copy of that agreement, statement, or decree or we have actual knowledge of the adverse provision when the obligation to us is incurred; and (2) you understand and agree that we will provide a copy of any loan agreement to your spouse for his or her information. If the loan for which you are applying is granted, you agree to notify us if you have a spouse by sending us your name and your spouse's name and address at our Notice Address, Attention: Wisconsin Resident.

- v. *Married Wisconsin Residents (business-purpose products only)*. If you are married, you confirm that (1) although the extension of credit is for the business purposes of the applicant borrower only and is not for a consumer purpose, if you (a) are an applicant borrower who is a sole proprietor and/or (b) become a guarantor to this transaction, you covenant that this obligation will be incurred in the interest of your marriage or family and for the benefit of your marital community; and (2) no provision of any marital property agreement or court decree under Wisconsin's Marital Property Act will adversely affect our interest unless, prior to the time credit is granted, we are furnished a copy of that agreement or decree.
 - vi. *Texas Residents*. All loan agreements must be in writing and signed by you or your authorized representative to be enforceable. Please refer to the Texas Business and Commerce Code [found here](#) for further information.
 - vii. *New York City Residents*. Goldman Sachs Bank USA conducts its U.S. direct lending businesses including loans and credit cards in English and does not provide translation or language assistance services in any other language. The New York City Department of Consumer Affairs provides a translation and description of commonly-used debt collection terms in multiple languages on its website www.nyc.gov/dca.
2. **Savings**. All Accounts (Online Savings Accounts and Certificate of Deposit Accounts as defined above) offered on and that may be accessible through the Service are held by Goldman Sachs Bank USA.
- i. If you are an Account owner, you may use the Online Banking portion of the Service to access your Account, transfer funds to and from your Account, and perform other actions related to your Account, provided you have created credentials and been authenticated. In the case of a joint Account, each joint owner must separately create his/her own credentials. Your use of the Online Banking portion of the Service is governed by these Terms, as well as the Deposit Account Agreement, including Section XIII. Online Banking. As applicable to your Accounts and the Online Banking portion of the Service, if these Terms conflict with the Deposit Account Agreement, unless specially stated otherwise in the other agreement, the other agreement will control.
 - ii. You may cancel your access to the Online Banking portion of the Service by calling us toll-free at 1-855-730-SAVE (1-855-730-7283).
 - iii. We may suspend, terminate, or limit your use of the Online Banking portion of the Service for any reason and without notice, except as may be required by law.
3. **Invest**. All advisory accounts ("**Advisory Accounts**") and services offered on, and that may be accessible through, the Service with respect to Advisory Accounts (collectively, "**Invest**") are provided by GS&Co., which is a registered broker-dealer and investment adviser, and member FINRA/SIPC.
- i. The Service may allow you to open an Advisory Account, through which contributions or deposits you make will be invested in accordance with the advisory services that GS&Co. provides to its clients (the "**Program**").
 - ii. If you decide to participate in the Program, you must enter into the "Agreements," which term refers collectively to a Customer Agreement and an Investment Advisory Agreement with GS&Co. (collectively, the "**Invest Account Agreements**") and a Custodial Agreement with the Custodian. Capitalized terms used in this Section 7.a.3 not otherwise defined herein have the meaning ascribed to such term in the Invest Account Agreements. The scope of any investment advisory relationship GS&Co. has with you is defined in the Invest Account Agreements. Except as otherwise stated in the Invest Account Agreements, material provided on the Service is provided solely on the basis that it is for educational purposes only and will not constitute investment advice.
 - iii. You may use the Service for your own use and **not** for any commercial or business purpose to:
 - a. learn about the Program;
 - b. learn about our investment advisory strategies, the portfolios offered by GS&Co., and the securities that comprise those portfolios;
 - c. enter into the Agreements;
 - d. open Advisory Accounts to participate in the Program;
 - e. select a portfolio from the various model portfolios offered to you by GS&Co.;
 - f. initiate requests to deposit money for investment in the Program or to sell securities and withdraw money invested in the Program, including full withdrawals followed by Advisory Account termination;
 - g. access statements and confirmations regarding transactions in connection with the value of your Advisory Account;

- h. access and print or download copies of the current version of the Agreements and other documentation relating to the Program; and
 - i. make such other use of the Service as we may expressly permit in writing from time to time in furtherance of the objectives and growth of the Program.
- iv. Outside assets, concentration, debt, or other accounts you may have with Goldman Sachs or with any third parties, including accounts that you link or manually track through Insights, are not considered in connection with the investment advisory services provided under the Program.
4. **Insights.** When you enroll in the Insights feature by linking at least one external account or manually tracking at least one account, asset, or liability, we may provide you with tools and trackers to help you access your Account Information (as defined in Section 8) and manage your finances. We may provide the ability to input or calculate your net worth, which represents an aggregate value calculation of the current value of your assets minus your liabilities, based on your linked accounts and any accounts you track manually (but excluding any business accounts).
5. **Credit and Debt Tools.** As part of our credit and debt tools, you agree that we may provide you with updates regarding changes to your consumer report and important notifications related to your credit profile, which we may do on the Service, via push notifications, emails or text messages. You may cancel your participation in our credit and debt tools at any time by contacting 1-844-MARCUS2 (1-844-627-2872). We may cancel your participation if you do not login for 12 consecutive months and we reserve the right to modify or eliminate the credit and debt tools, at any time. Our credit and debt tools are only available to customers who have a social security number and an active and open loan account. If you applied for a Marcus loan through our paper application and would like to receive our credit and debt tools, contact us at 1-844-MARCUS2 (1-844-627-2872).
- b. We may also, from time-to-time, make Third Party Services available to you through the Service. We do not control or endorse, nor are we responsible for, any Third Party Services, including the accuracy, validity, timeliness, completeness, reliability, integrity, quality, legality, usefulness or safety of Third Party Services, or any intellectual property rights therein. Nothing in these Terms shall be deemed to be a representation or warranty by us with respect to any Third Party Services. We have no obligation to monitor Third Party Services, and we may block or disable access to any Third Party Services (in whole or part) through the Service at any time. In addition, the availability of any Third Party Services through the Service does not imply our endorsement of, or our affiliation with, any provider of such Third Party Service, nor does such availability create any legal relationship between you and any such provider. YOUR USE OF ANY THIRD PARTY SERVICE IS AT YOUR OWN RISK AND IS SUBJECT TO ANY ADDITIONAL TERMS, CONDITIONS AND POLICIES APPLICABLE TO SUCH THIRD PARTY SERVICE (SUCH AS TERMS OF SERVICE OR PRIVACY POLICIES OF THE PROVIDER OF SUCH THIRD PARTY SERVICE). Refer also to Section 10 of these Terms for more information about Third Party Sites.

SECTION 8. TERMS SPECIFIC TO ACCOUNT LINKING

- a. By linking any of your accounts or information held by us or any third parties to the Service, such as by choosing to link an account to the Service (a "**Linked Account**"), you authorize and direct us and/or our Data Providers (defined below) to access third party sites, databases and other services relating to the Linked Account, to verify your ownership of and other information about your account, and to access, retrieve and use your account information or other information you direct us to access on an ongoing basis ("**Account Information**"). We may connect directly to a financial institution or use the services of a third party provider, including Plaid Inc., to access your Account Information, (these third parties are referred to as "**Data Providers**"). In some situations, this may include (i) authorizing us (either directly or through our Data Provider) to provide your account login credentials or other information and (ii) granting us (either directly or through our Data Provider) full power and authority to take any additional steps, all as necessary to access, retrieve and use your Account Information in accordance with these Terms and our Privacy Policy. You acknowledge and agree that (iii) when we or our Data Provider access, retrieve and use Account Information, we are acting as your agent, and not as the agent of or on behalf of any other party; (iv) if we use a Data Provider to access your Account Information, that Data Provider will provide to us, on your behalf, your Account Information for our use in connection with the Service, including to respond to your inquiries, fulfill your requests, provide you with customer service, and identify offers from us and third parties that may be of interest to you; (v) we and our Data Provider may each use, modify, display, distribute and create new material using your Account Information to offer Products and third party services to you and as otherwise described in our [Privacy Policy](#); and (vi) we and our Data Provider may each use, sell, license, reproduce, modify, distribute and disclose aggregate or non-personally identifiable information derived through your use of the Service, including any Account Information obtained pursuant to the authorization above, for any purpose. **Please refer to our [Privacy Policy](#) for information on how we use, maintain, and share your Account Information.**
- b. We are not obligated to review Account Information for any purpose, including accuracy, legality, or non-infringement. We will not use Account Information to verify accuracy of your response to any Invest account opening questions or suitability of any investment advice provided by GS&Co. in connection with the Program or your Advisory Accounts. You agree we and

our Data Provider shall be entitled to rely on the foregoing authorization granted by you. If you wish to revoke the foregoing authorization for a particular Linked Account, you must unlink the account from each Product to which it is linked on the Service.

- c. You represent and warrant you are a legal owner of, or you are authorized to provide us and our Data Provider with, all Account Information, and have the right to grant the permissions set forth herein, and our third party provider's exercise of its rights set forth herein will not violate any applicable laws or third party rights. You may only link your external accounts held at a financial institution located in the United States or in a United States territory. You understand and agree the Service is not sponsored or endorsed by, or affiliated with, any third parties, including any financial institution that holds the account you may choose to link to the Service.

SECTION 9. USER CONTENT

- a. The Service may enable you to transmit, post, communicate or otherwise make available text, photos, videos, links, information, ideas, suggestions, content and other materials ("**User Content**"), including through the Service's interactive features or functionality, such as chat features, message boards, forums and other communications tools. User Content may be accessible to and viewable by other users of the Service and the public. We do not claim ownership to User Content; however, by uploading or posting to the Service, you hereby grant to us a worldwide, royalty-free, fully paid-up, non-exclusive, perpetual, irrevocable, transferable and fully sub-licensable (through multiple tiers) license, without additional consideration to you or any third party, to reproduce, transmit, print, publish, distribute, index, exhibit, perform, display (publicly or otherwise), create derivative works of, adapt, modify, translate, comment on, use, analyze and otherwise exploit User Content for any purpose, including the right to use your name and likeness as contained therein, in whole and in part, in any format, media or channels now known or hereafter developed (including in connection with the Service and on third-party applications, sites and platforms such as Facebook, Twitter and YouTube), without further notice to you and without further requirement of permission from or payment to you or any other person or entity. You acknowledge and agree that we may use any ideas, concepts, know how or techniques contained in User Content for any purposes whatsoever, including in advertising or informational articles.
- b. You are solely responsible for User Content. This means you, and not us, are entirely responsible and liable for any claims, loss or damages relating to User Content. When you post User Content, you represent and warrant you have permission to do so, including permission from any third parties whose names or likenesses are included.
- c. In addition, if you provide to us any ideas, proposals, suggestions or other materials ("**Feedback**"), whether related to the Service, a Product or otherwise, such Feedback will be deemed to be User Content, and you hereby acknowledge and agree such Feedback is not confidential, and your provision of such Feedback is gratuitous, unsolicited and without restriction, and does not place us under any fiduciary or other obligation.
- d. You represent and warrant you have all rights necessary to grant the licenses granted in this section, and User Content, and your provision thereof through and in connection with the Service, are complete and accurate, and are not fraudulent, tortious or otherwise in violation of any applicable law or any right of any third party. You further irrevocably waive any other rights with respect to attribution of authorship or integrity of materials regarding User Content you may have under any applicable law under any legal theory.
- e. A Few Rules of the Road Regarding User Content. We do not endorse or control User Content, so we have to ask that you follow a few rules:
 - 1. *User Content Must Comply with Our Acceptable Use Policy (as set forth in Section 11)*. Don't post content or materials that are obscene or that promote illegal activity, or that defame, abuse, harass, threaten or otherwise violate the legal rights of others (including rights of privacy and publicity). Any content or materials containing things like hate speech, nudity and violence (as examples) is strictly prohibited.
 - 2. *User Content Must Be Yours*. This means you have created the content or materials containing User Content and, where applicable, you must have permission from everyone whose name or likeness is contained in your content or materials to share such content or materials. User Content should not contain any visible logos, phrases or trademarks or other third party materials. Do not post any content or materials that belong to a third party (including any content that you might have found elsewhere on the Internet).
 - 3. *User Content Must Be Accurate and Truthful*. Do not impersonate any other user, person or company or upload or post any content or material that you know is inaccurate, fraudulent, or deceptive. If you are not authorized to speak on behalf of Company, please do not do so. Anything you say or post on the Service should reflect your true opinions or experiences.
 - 4. *User Content Must Not Include Sensitive Information*. Please avoid including your sensitive personal information (such as your social security number, credit card number, etc.) in any User Content posted.

5. *User Content Must Not Be Commercial.* Don't post advertisements, offers, or other commercial content designed or intended to sell your or a third party's goods or services.
- f. No Obligation to Monitor User Content. We may and expressly reserve the right (but have no obligation) to monitor, scan, intercept, review, analyze, record, store, evaluate, alter or remove User Content (and any messages, information, content or other materials sent to you, or received by you, in connection with the Service or its features or functionalities), at any time, including while it is in transit, and before and after it is stored or made available through the Service, and to monitor, review, analyze or evaluate your access to or use of the Service (including any Service features or functionalities), in each case by manual, automated or other means, and in each case for any purpose (including analytics, advertising (including sharing with ad brokers), marketing and any purposes as may be described in our Privacy Policy).

SECTION 10. INFORMATION MADE AVAILABLE THROUGH THE SERVICE OR THIRD PARTY SITES

- a. You are permitted to use the tools, content, information, links or materials made available to you on or through the Service ("**Service Information**") only for your own use and **not** for any commercial or business purpose, except as relates to relationships between you and us. You are not permitted to publish, transmit or otherwise reproduce any Service Information in any format without our express written consent. In addition, you are not permitted to change, hide or remove any copyright, trademark or any other notices contained on the Service. We reserve the right, in our sole discretion, to add, change or remove any Service Information at any time and from time-to-time. These Terms do not provide you with any rights to any Service Information other than those specifically described in these Terms. All rights not expressly granted in these Terms are reserved by us or the third party providers of any Service Information.
- b. The Service may contain links and other functionality that connect with certain sites and applications not provided by us, including social media sites and sites hosted by a third party provider ("**Third Party Sites**"). We are providing these links and functionality solely as a convenience to you. We are not responsible for and have no liability for the content, features, products, services, privacy policies or terms of service of any Third Party Sites. The fact that we have provided a link to a Third Party Site is not an endorsement of that Third Party Site (including any information or content made available throughout such site) or its owners, sponsors or operators. We have not tested any information, software or products found on any Third Party Site and therefore do not make any representations about those sites or any associated products or services.
- c. EXCEPT AS OTHERWISE PROVIDED BY APPLICABLE LAW, NEITHER WE NOR OUR THIRD PARTY PROVIDERS ARE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY (I) YOUR RELIANCE ON ANY SERVICE INFORMATION INCLUDING ANY OPINION, ADVICE, PRODUCT, SERVICE, CONTENT OR OTHER INFORMATION AVAILABLE THROUGH THE SERVICE OR ANY THIRD PARTY SITE OR (II) YOUR RELIANCE ON ANY PRODUCT OR SERVICE OBTAINED FROM A THIRD PARTY SITE. IT IS YOUR RESPONSIBILITY TO EVALUATE THE ACCURACY, COMPLETENESS OR USEFULNESS OF ANY OPINION, ADVICE, PRODUCT, SERVICE, CONTENT OR OTHER INFORMATION AVAILABLE ON OR THROUGH THE SERVICE OR OBTAINED FROM A THIRD PARTY SITE. PLEASE SEEK THE ADVICE OF PROFESSIONALS, AS APPROPRIATE, REGARDING THE EVALUATION OF ANY SPECIFIC OPINION, ADVICE, PRODUCT, SERVICE, CONTENT OR OTHER INFORMATION CONTAINED ON THE SERVICE OR ANY THIRD PARTY SITE.
- d. Promotions. Any sweepstakes, contests, raffles, surveys, games or similar promotions (collectively, "**Promotions**") made available through the Service may be governed by rules that are separate from these Terms. If you participate in any Promotions, please review the applicable rules as well as our [Privacy Policy](#). These Terms will apply to any Promotions; however, if the rules for a Promotion conflict with this Agreement, the Promotion rules will govern.
- e. Advertising. We may have relationships with one or more third party providers or advertisers, including operators of sites matching users with providers of various financial products and services, pursuant to which we compensate or receive compensation from such third party provider or advertiser for the services provided. With respect to Invest, such advertising relationships are not related to any client referrals, and, to the extent that we may from time to time make any cash payments for client referrals to third parties, we conduct any such referral arrangements consistent with applicable laws, including Rule 206(4)-3 under the Advisers Act of 1940.

SECTION 11. ACCEPTABLE USE

- a. You accept sole responsibility for all of your activities using the Service. You may not use the Service in a manner that:
- i. Uses technology or other means not authorized by us to access the Service Information or our systems;
 - ii. Uses or launches any manual or automated device or system, including "robots," "spiders," or "offline readers," to (a) retrieve, index, "scrape," "data mine," access or otherwise gather any Service Information or our systems; (b) reproduce or circumvent the navigational structure or presentation of the Service; or (c) otherwise harvest or collect information about users of the Service;

- iii. Reverse engineers, decompiles or disassembles any portion of the Service, except where such restriction is expressly prohibited by applicable law;
- iv. Attempts to introduce viruses or any other computer code, files, or programs that interrupts, destroys, or limits the functionality of any computer software, hardware, or telecommunications equipment;
- v. Attempts to gain unauthorized access to our computer network or user accounts;
- vi. Encourages conduct that would constitute a criminal offense or that gives rise to civil liability;
- vii. Harasses, abuses, stalks, threatens, defames, or otherwise infringes or violates the rights of us or any other party (including rights of publicity or other proprietary rights);
- viii. Is unlawful, fraudulent, or deceptive;
- ix. Attempts to damage, disable, overburden, or impair our servers or networks;
- x. Reproduces, modifies, adapts, translates, creates derivative works of, sells, rents, leases, loans, timeshare, distributes or otherwise exploits any portion of (or any use of) the Service except as expressly authorized herein, without our express prior written consent;
- xi. Fails to comply with applicable third party terms; or
- xii. Otherwise violates these Terms.

SECTION 12. TERMINATION

Subject to applicable law and the terms of any Product or Third Party Service, we reserve the right, in our reasonable discretion, to terminate Your License, your use of the Service (in whole or in part), your user account, any Product provided to you or Third Party Service made available to you and to assert our legal rights with respect to content or use of the Service we reasonably believe is, or might be, in violation of these Terms or the terms of any Product or Third Party Service. Upon any such termination, you agree to promptly delete all copies of the App from any of your devices on which the App has been installed. The provider of a Third Party Service you access through the Service may have additional termination rights under the terms for their Third Party Service.

SECTION 13. PROTECTING YOUR DEVICES AND USER ACCOUNT

You are solely responsible for (a) maintaining the security of your computer(s) or device(s) used for accessing the Service or on which the App has been installed; and (b) the confidentiality of your user account information, including your access credentials. You are solely responsible for any and all activity that occurs under your user account as a result of your sharing this information or failing to keep this information secure and confidential, except as otherwise provided by law. You agree to notify us immediately of any unauthorized use of your user account, or any other breach of security, by calling us toll-free at 1-855-730-SAVE (1-855-730-7283) for Marcus deposits, Insights and related Products, for Marcus lending Products by calling us toll-free at 1-844-MARCUS2 (1-844-627-2872) for personal loans and MarcusPay or 1-833-906-2224 for small business loans, or 1-833-720-MINV (1-833-720-6468) for Invest.

SECTION 14. WARRANTIES; DISCLAIMERS

- a. **WE MAKE NO WARRANTY, EXPRESS OR IMPLIED, CONCERNING THE SERVICE, ANY PRODUCT OR ANY THIRD PARTY SERVICE. THE SERVICE, PRODUCTS AND THIRD PARTY SERVICES PROVIDED BY US AND OUR THIRD PARTY PROVIDERS ARE PROVIDED ON AN "AS IS" BASIS. WE EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, INCLUDING ANY WARRANTY WITH RESPECT TO THE CORRECTNESS, QUALITY, ACCURACY, COMPLETENESS, RELIABILITY, PERFORMANCE, TIMELINESS OR CONTINUED AVAILABILITY OF THE SERVICE OR ANY SERVICE INFORMATION, PRODUCTS OR THIRD PARTY SERVICES. ALL DISCLAIMERS OF ANY KIND (INCLUDING IN THIS SECTION AND ELSEWHERE IN THESE TERMS) ARE MADE FOR THE BENEFIT OF BOTH GOLDMAN SACHS BANK USA AND ITS AFFILIATES AND THEIR RESPECTIVE SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES, AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS. PROVIDERS OF THIRD PARTY SERVICES MAY HAVE ADDITIONAL OR DIFFERENT WARRANTIES REGARDING THEIR THIRD PARTY SERVICES.**
- b. THE SERVICE INFORMATION, ACCOUNT INFORMATION, SOFTWARE, PRODUCTS AND DESCRIPTIONS OF PRODUCTS, OR THIRD PARTY SERVICES AND DESCRIPTIONS OF THIRD PARTY SERVICES, PUBLISHED OR MADE AVAILABLE THROUGH THE SERVICE MAY INCLUDE INACCURACIES OR TYPOGRAPHICAL ERRORS, AND WE SPECIFICALLY DISCLAIM ANY LIABILITY FOR SUCH INACCURACIES OR ERRORS. **If you believe that Account Information made available through the Service is inaccurate or outdated, then you should contact the financial institution or other company that**

maintains the Account Information. WE DO NOT WARRANT OR REPRESENT THAT THE INFORMATION MADE AVAILABLE THROUGH THE SERVICE IS COMPLETE, CORRECT, SECURE OR UP-TO-DATE. ANY DATED INFORMATION IS PUBLISHED AS OF ITS DATE ONLY AND WE DO NOT HAVE ANY OBLIGATION TO UPDATE THAT INFORMATION. NEITHER WE NOR ANY OF OUR THIRD PARTY PROVIDERS HAVE ANY RESPONSIBILITY TO MAINTAIN THE DATA, SERVICE INFORMATION, ACCOUNT INFORMATION, PRODUCTS OR THIRD PARTY SERVICES MADE AVAILABLE THROUGH THE SERVICE OR TO SUPPLY ANY CORRECTIONS, UPDATES OR RELEASES IN CONNECTION WITH THAT DATA, SERVICE INFORMATION, ACCOUNT INFORMATION, PRODUCTS OR THIRD PARTY SERVICES. WE DO NOT WARRANT OR REPRESENT THAT WE WILL BE ABLE TO RETRIEVE YOUR ACCOUNT INFORMATION. THE SERVICE INFORMATION AND AVAILABILITY OF THE SERVICE, ANY PRODUCT OR ANY THIRD PARTY SERVICE IS SUBJECT TO CHANGE WITHOUT NOTICE. WE DO NOT REPRESENT OR GUARANTEE THAT THE SERVICE, ANY PRODUCT OR ANY THIRD PARTY SERVICE WILL BE AVAILABLE OR FREE FROM LOSS, ATTACK, HACKING OR OTHER SECURITY INTRUSION AND WE EXPRESSLY DISCLAIM LIABILITY FOR ANY SECURITY-RELATED LOSS OR DAMAGES.

- c. Unless otherwise disclosed to, and agreed to by, you, Products are provided for free and our credit and debt tools and Insights are for educational and informational purposes only. We are not a credit repair organization as defined under federal or state law, including the Credit Repair Organizations Act and we do not provide "credit repair" services or advice or assistance regarding "rebuilding" or "improving" your credit. We make no representation we will improve or attempt to improve your credit record, history, or rating. Any information or content provided by or through the Service or Products (including any Service Information or, with respect to Invest, any information or content provided by the Custodian) does not, and should not be construed to, constitute or provide any financial, investment, legal, accounting, tax or other advice to you or with respect to any account you may have with us unless explicitly agreed to by us in writing. Articles provided in connection with our credit and debt tools and Insights are general in nature, provided for educational and informational purposes only and are not a substitute for individualized professional advice. We do not provide tax or legal advice in connection with the Service and encourage you to consult a financial, investment, legal, accounting or tax advisor with respect to any such issues or before making tax-related investment decisions.

SECTION 15. NO LIABILITY

YOU AGREE YOUR ACCESS TO AND USE OF THE SERVICE, ANY PRODUCT OR ANY THIRD PARTY SERVICE IS AT YOUR OWN RISK. IN NO EVENT SHALL WE OR OUR THIRD PARTY PROVIDERS BE HELD LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES ARISING IN CONNECTION WITH (A) YOUR USE OF THE SERVICE, SERVICE INFORMATION, ACCOUNT INFORMATION (INCLUDING WITH RESPECT TO THE RETRIEVAL OR ACCURACY THEREOF), ANY PRODUCT (INCLUDING ANY APPLICATION FOR SUCH PRODUCT) OR ANY THIRD PARTY SERVICE OR THIRD PARTY SITE, OR (B) ANY SITE OR APP FAILURE, ERROR, OMISSION, INTERRUPTION, DEFECT, DELAY IN OPERATION OR TRANSMISSION; COMPUTER VIRUS; OR LINE OR SYSTEM FAILURE, EVEN IF WE OR OUR REPRESENTATIVES ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES OR EXPENSES.

SECTION 16. SYSTEM OUTAGES, SLOWDOWNS AND CAPACITY LIMITATIONS

Any computer system, service or electronic device, whether it is yours, an internet service provider's, a mobile network operator's or ours, can experience unanticipated outages, slowdowns and/or capacity limitations. As a result of high internet traffic volume, transmission problems, systems capacity limitations and other problems, you may, at times, experience difficulty accessing the Service or communicating with us through the internet or other electronic and wireless services. The Service may be unavailable during system maintenance, for security precautions or when interrupted by circumstances beyond our control.

SECTION 17. MARKS, APPLICATION AND CONTENT

The names "Marcus: by Goldman Sachs" and "Marcus by Goldman Sachs," the "Marcus: by Goldman Sachs" logo, the "M:" logo and other Goldman Sachs trademarks, service marks, graphics and logos used in connection with the Service are our or our affiliate's trademarks or registered trademarks; and the name "Goldman Sachs & Co. LLC" and other trademarks, service marks, graphics, and logos of Goldman Sachs & Co. LLC or The Goldman Sachs Group, Inc. used in connection with the Service are our or our applicable affiliate's trademarks or registered trademarks (collectively "**Goldman Sachs Marks**"). Other trademarks, service marks, graphics and logos used in connection with the Service are the trademarks of their respective owners (collectively "**Third Party Marks**"). The Goldman Sachs Marks and Third Party Marks may not be copied, imitated or used, in whole or in part, without our prior written permission or the prior written permission of the applicable trademark owner. The Service and its content are owned, controlled or licensed to or by us and protected by copyright, trademark, patent, trade secret, international treaties, laws and other proprietary rights.

SECTION 18. DMCA NOTICE - HOW TO PROVIDE NOTICE OF ALLEGED COPYRIGHT INFRINGEMENT

- a. You may not use the Service for any purpose or in any manner that infringes the rights of any third party. In accordance with the Digital Millennium Copyright Act of 1998 (the "**DMCA**"), we have a designated agent for receiving notices of alleged

copyright infringement and we follow the notice and take down procedures of the DMCA. We may terminate your access to the Service in the event of repeated violations.

- b. **Procedure.** If you believe one of our users is, through the use of the Service, unlawfully infringing the copyright(s) in your work, and wish to have the allegedly infringing material removed, the following information in the form of a written notification (pursuant to the DMCA) must be provided to our designated copyright agent: (i) a physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; (ii) identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works on the Service are covered by a single notification, a representative list of such works on the Service; (iii) identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled; (iv) information reasonably sufficient to permit us to locate such material; (v) information reasonably sufficient to permit us to contact you, such as your address, phone number, and email address; (vi) a statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and (vii) a statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the copyright owner.
- c. It is often difficult to determine if your intellectual property rights have been violated. We may request additional information before we remove any allegedly infringing material. Please note that, pursuant to 17 U.S.C. § 512(f), any misrepresentation of material fact (falsities) in a written notification automatically subjects the complaining party to liability for any damages, costs and attorney's fees incurred by us in connection with the written notification and allegation of copyright infringement. We may request additional information before we remove any allegedly infringing material. Please direct copyright infringement notifications to our DMCA agent at dmca@marcus.com (please include "Notice of Infringement" in the subject line) or by mail to Copyright Manager, Goldman Sachs & Co. LLC, 200 West Street, New York, NY 10282. Our DMCA agent's phone number is 212-902-1000.

SECTION 19. DISPUTE RESOLUTION; AGREEMENT TO ARBITRATE; CLASS ACTION WAIVER.

Many concerns can be resolved by calling us at 1-855-730-7283 (toll-free) or writing us at our Notice Address. If a dispute cannot be resolved informally, this Section 19 explains how claims (whether by or against you or us) will be resolved for Insights users.

IF ARBITRATION IS CHOSEN BY ANY PARTY, NEITHER YOU NOR WE WILL HAVE THE RIGHT TO LITIGATE THAT CLAIM IN COURT OR HAVE A JURY TRIAL ON THAT CLAIM. FURTHER, YOU AND WE WILL NOT HAVE THE RIGHT TO PARTICIPATE IN A REPRESENTATIVE CAPACITY OR AS A MEMBER OF ANY CLASS PERTAINING TO THAT CLAIM. ARBITRATION PROCEDURES ARE GENERALLY SIMPLER THAN THE RULES THAT APPLY IN COURT, AND DISCOVERY IS MORE LIMITED. THE ARBITRATOR'S DECISIONS ARE AS ENFORCEABLE AS ANY COURT ORDER AND ARE SUBJECT TO VERY LIMITED REVIEW BY A COURT. THE ARBITRATOR'S DECISION WILL BE FINAL AND BINDING. OTHER RIGHTS YOU OR WE WOULD HAVE IN COURT MAY ALSO NOT BE AVAILABLE IN ARBITRATION. YOU MAY EXERCISE YOUR RIGHT TO REJECT ARBITRATION IN THE MANNER, AND WITHIN THE TIME, SPECIFIED IN SECTION 19(F).

Please note that if you do not want this arbitration provision to apply to you, you must opt-out as provided below. Even if you have previously opted-out of arbitration for a different product or service offered by Goldman Sachs, you must separately opt out of this arbitration provision if you do not want it to apply to you because Goldman Sachs manages your arbitration opt-out at the product or service level.

- a. **Definitions.** For purposes of this Section 19, "**Claim**" means any current or future claim, dispute or controversy relating in any way to these Terms or the Service or the relationship between you and us, except for the validity, enforceability or scope of the arbitration provision set forth in subsection 19.d below. "**Claim**" includes: (i) initial claims, counterclaims, cross claims and third party claims; (ii) claims based upon contract, tort, fraud, statute, regulation, common law and equity; (iii) claims by or against any third party using or providing any product, service or benefit in connection with these Terms or the Service; and (iv) claims that arise from or relate to (A) these Terms, (B) the Service, (C) advertisements, promotions, or statements related to these Terms or the Service, (D) your application for any Product, (E) your access to or use of any Third Party Service, or (F) debt collection or credit reporting on or related to any Product.
- b. **Claim Notices.** Before beginning a lawsuit, mediation or arbitration, you and we agree to send a notice (a "**Claim Notice**") to each party against whom a Claim is asserted. The Claim Notice will give you and us a chance to resolve our dispute informally or in mediation. The Claim Notice must describe the Claim and state the specific relief demanded. Notice to you may be sent to your current mailing address or email address on file with us. You must provide your name, address and phone number in your Claim Notice. Your Claim Notice must be sent to our Notice Address.
- c. **Mediation.** In mediation, a neutral mediator helps parties resolve a Claim. The mediator does not decide the Claim but helps parties reach agreement. Before beginning mediation, you or we must first send a Claim Notice. Within thirty days after sending or receiving a Claim Notice, you or we may submit the Claim to JAMS (1-800-352-5267, jamsadr.com) or AAA (1-

800-778-7879, adr.org) for mediation. We will pay the fees of the mediator. All mediation-related communications are confidential, inadmissible in court and not subject to discovery. All applicable statutes of limitation will be tolled until termination of the mediation. Either you or we may terminate the mediation at any time. The submission or failure to submit a Claim to mediation will not affect your or our right to elect arbitration.

d. Arbitration.

1. You or we may elect to resolve any Claim by individual binding arbitration. This election may be made by the party asserting the Claim or the party defending the Claim. Claims will be decided by one neutral arbitrator who will be a retired judicial officer or an attorney with at least ten years of experience; however, if we both agree, we may select another person with different qualifications.
2. Before beginning arbitration, you or we must first send a Claim Notice. The party electing arbitration must choose to arbitrate before either JAMS or AAA. However, if we choose one of those two organizations, you may choose the other organization instead if you inform us of that choice within thirty days after we elect arbitration. Claims will be resolved pursuant to this Section 19 and the selected organization's rules in effect when the Claim is filed, except where those rules conflict with this Section 19. If the rules conflict, the terms of these Terms will apply. Contact JAMS or AAA to begin an arbitration or for other information. Claims also may be referred to another arbitration organization, if you and we agree in writing, or to an arbitrator appointed pursuant to Section 5 of the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (the "FAA").
3. We will not elect arbitration for any Claim you file in small claims court, so long as the Claim is an individual Claim and pending only in that court. You or we may otherwise elect to arbitrate any Claim at any time unless it has been filed in court and trial has begun or unless final judgment has been entered. Either you or we may delay enforcing or not exercise rights under this arbitration provision, including the right to arbitrate a Claim, without waiving the right to exercise or enforce those rights. Even if all parties have opted to litigate a Claim in court, you or we may elect arbitration of a Claim made by a new party or any new Claim later asserted by a party in that or any related or unrelated lawsuit. You or we also may elect arbitration of a Claim that the parties initially opted to litigate in court if that Claim is later modified (including to be asserted on a class, representative or multi-party basis or to seek different or additional relief).
4. This arbitration provision is governed by the FAA. The arbitrator will apply applicable substantive law, statutes of limitations and privileges. The arbitrator will not apply any federal or state rules of civil procedure or evidence in matters relating to evidence or discovery. Subject to the limitations of this Section 19, the arbitrator may award any relief available in an individual action in court. Any award of punitive damages will be subject to the same limitations as an award of punitive damages in court. The arbitration will be confidential, but you may notify any government authority of your Claim. Judgment upon any arbitration award may be entered in any court having jurisdiction. Arbitration hearings will take place in Salt Lake County, Utah or, upon your request, in the federal judicial district where you reside. We will pay any fees charged by JAMS or AAA in connection with any Claims. You will be responsible for any other costs that you incur in connection with any Claim.

e. Additional Arbitration Award; Attorneys' Fees. If we make a final written settlement offer before the arbitrator is selected and the arbitrator rules in your favor for an amount greater than that final offer, or if we do not make a final written settlement offer before the arbitrator is selected and the arbitrator rules in your favor on the merits of your Claim, the arbitrator's award will include: (i) any money to which you are entitled, but in no case less than \$10,000; (ii) twice the amount of your reasonable attorneys' fees, or the amount of attorneys' fees to which you are entitled under applicable law, whichever is greater; and (iii) your costs and expert and other witness fees. If we prevail in arbitration, we will not be entitled to recover our attorneys' fees even when permitted to do so under applicable law.

f. Arbitration Opt-Out; Your Right to Reject Arbitration. **YOU MAY REJECT THIS ARBITRATION PROVISION BY CALLING US AT 1-855-730-7283 (TOLL-FREE), OR WRITING US AT MARCUS BY GOLDMAN SACHS, 11850 SOUTH ELECTION ROAD, BUILDING 9, DRAPER, UT 84020 AND STATING THE FOLLOWING IN YOUR NOTICE: (I) YOUR NAME, (II) YOUR ADDRESS, (III) YOUR PHONE NUMBER, AND (IV) THAT YOU ARE EXERCISING YOUR RIGHT TO REJECT ARBITRATION UNDER SUBSECTION 19.F OF THE TERMS (A "REJECTION NOTICE"). YOUR REJECTION NOTICE MUST BE RECEIVED WITHIN NINETY DAYS AFTER YOU REGISTER TO USE THE SERVICE. IF YOUR REJECTION NOTICE COMPLIES WITH THESE REQUIREMENTS, THE ARBITRATION PROVISION IN SUBSECTION 19.D WILL NOT APPLY TO YOU, EXCEPT FOR ANY CLAIMS SUBJECT TO PENDING LITIGATION OR ARBITRATION AT THE TIME YOU SEND YOUR REJECTION NOTICE. REJECTION OF THE ARBITRATION PROVISION WILL NOT AFFECT YOUR OTHER RIGHTS OR RESPONSIBILITIES UNDER THIS SECTION 19 OF THESE TERMS.**

g. Class Action Waiver and Other Limitations on Arbitration. IF EITHER PARTY ELECTS TO RESOLVE A CLAIM BY ARBITRATION, THAT CLAIM WILL BE ARBITRATED ON AN INDIVIDUAL BASIS. THERE WILL BE NO RIGHT OR AUTHORITY

FOR ANY CLAIMS TO BE ARBITRATED ON A CLASS ACTION BASIS, IN A PURPORTED REPRESENTATIVE CAPACITY OR ON BEHALF OF THE GENERAL PUBLIC, OTHER USERS OR OTHER PERSONS. THE ARBITRATOR MAY NOT AWARD ANY DECLARATORY, INJUNCTIVE OR OTHER RELIEF FOR THE BENEFIT OF THE GENERAL PUBLIC, OTHER USERS OF THE SERVICE OR OTHER PERSONS. The arbitrator's authority is limited to Claims between you and us alone. Claims may not be joined or consolidated unless you and we agree in writing. Any arbitration award shall be confidential, and any judgment confirming it will apply only to the specific case or proceeding and cannot be used in any other case or proceeding except to enforce the award. No determination by the arbitrator may be used in any other case or proceeding except a case or proceeding between you and us. Despite any other provision and without waiving the right to appeal such decision, if any portion of this Section 19.g is deemed invalid or unenforceable as to a particular claim or remedy, then (i) the entire arbitration provision set forth in subsection 19.g will not apply to that claim or remedy; and (ii) no determination by the arbitrator shall be considered by the court with respect to that claim or remedy.

- h. Survival and Severability of Dispute Resolution Provision. This Section 19 will survive the termination or closing of your user account and the termination of any relationship between you and us, termination of these Terms, any legal proceeding relating to your use of the Service, any bankruptcy (as applicable) or receivership and any sale or assumption of these Terms or the Service or any and all rights thereunder. In the case of a sale or assumption of these Terms or the Service or any and all rights thereunder, the buyer will be bound by and may enforce the terms of this Section 19. If any portion of this Section 19 is deemed invalid or unenforceable, it will not invalidate the remaining provisions of this Section 19 or of these Terms (except as set forth in Section 19.g).

SECTION 20. NEW JERSEY STATE DISCLOSURE

If you are a New Jersey resident, notwithstanding anything to the contrary in Sections 10, 14 or 15, we do not disclaim liability for any damages directly and proximately resulting from our own gross negligence, recklessness or intentional misconduct. However, in no event (except with respect to personal injury) will we be liable for indirect, special, incidental or consequential damages, losses or expenses or for punitive or exemplary damages of any kind.

SECTION 21. ADDITIONAL TECHNOLOGY

We may use Google, Inc. ("**Google**") Maps API and/or Places API to help auto-complete address information on the Service. By using this service, you agree to be bound by Google's Terms of Service and Privacy Policy. To learn more about Google's Terms of Service, please visit https://maps.google.com/help/terms_maps.html and Google's Privacy Policy, please visit <https://www.google.com/policies/privacy/>.

SECTION 22. SEVERABILITY / NO WAIVER

If any provision of these Terms is deemed unlawful, void or unenforceable for any reason, then such provision shall be deemed to be removed from these Terms and shall not affect the validity and enforceability of any remaining provisions. Our failure to enforce the strict performance of any provision of these Terms or additional terms for any Product or Third Party Service will not waive our right to later enforce those provisions.

SECTION 23. APPLICABLE LAW

- a. Except as provided in subsections (b) and (c) below, these Terms shall be governed by and construed in accordance with federal law and any applicable laws of the State of Utah without regard to rules concerning conflicts of law or choice of law.
- b. If you are a New York resident, these Terms shall be governed by and construed in accordance with federal law and the laws of the State of New York, without regard to rules concerning conflicts of law or choice of law.
- c. Invest. Unless otherwise governed by a separate agreement, including the Arbitration Agreement in the Invest Account Agreements, you and we agree and irrevocably submit to the exclusive jurisdiction of the courts of the State of New York and (to the extent it has sufficient matter jurisdiction) of the federal courts in the Southern District of New York with respect to any legal action or proceeding arising out of or relating to your use of or access to Invest or the Program, and consent to the service of process by the mailing to such party of copies thereof by certified mail to the other party. Each of the parties irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum.

SECTION 24. FILTERING

We hereby notify you that parental control protections (such as mobile device and computer hardware, software or filtering services) are commercially available that may assist you in limiting access to material that is harmful to minors. Information identifying current providers of such protections is available from https://en.wikipedia.org/wiki/Comparison_of_content-control_software_and_providers. Please note that we do not endorse any of the products or services listed on such sites.

SECTION 25. ACCESSIBILITY

- a. We are committed to making the Service accessible to our customers and the public, including individuals with disabilities. Please contact our Customer Care Center toll-free at 1-855-730-SAVE (1-855-730-7283) for Marcus deposits, Insights and related Products, for Marcus lending Products toll-free at 1-844-MARCUS2 (1-844-627-2872) for personal loans and MarcusPay or 1-833-906-2224 for small business loans, or 1-833-720-MINV (1-833-720-6468) for Invest and ask to speak to our Americans with Disabilities Act (“ADA”) coordinator to learn more about our accessibility support services.
- b. Reasonable Accommodations. Individuals who need a reasonable accommodation to access the Service should call our Customer Care Center toll-free at 1-855-730-SAVE (1-855-730-7283) for Marcus deposits, Insights and related Products, for Marcus lending Products toll-free at 1-844-MARCUS2 (1-844-627-2872) for personal loans and MarcusPay or 1-833-906-2224 for small business loans, or 1-833-720-MINV (1-833-720-6468) for Invest and ask to speak to our ADA coordinator. Requesters will need to provide the date on which the reasonable accommodation is needed and information about the nature of the requested accommodation. Requesters should include the type of device the requester is using, as well as contact information such as an email address or phone number at which they can be reached. Depending on the nature of the request, we may need significant advance notice to provide a reasonable accommodation.
- c. Feedback. In the event a user with a disability experiences accessibility issues with the Service, please notify our ADA coordinator toll-free at 1-855-730-SAVE (1-855-730-7283) for Marcus deposits, Insights and related Products, for Marcus lending Products toll-free at 1-844-MARCUS2 (1-844-627-2872) for personal loans and MarcusPay or 1-833-906-2224 for small business loans, or 1-833-720-MINV (1-833-720-6468) for Invest. In your communication to us, please specify the nature of the accessibility difficulty, including the portion of the Service that may have presented an accessibility challenge, as well as the type of device the requester is using.
- d. Third Party Sites. The Service contains links to Third Party Sites. We do not make any representations with regard to the accessibility of Third Party Sites and are not able to remediate accessibility barriers on such sites.

SECTION 26. CONTACT US

Many questions regarding the Service, including our Products, can be answered through our FAQs [found here](#), or [here](#) for small business loans. Any other questions, complaints or claims regarding the Service or Products should be directed to our Customer Care Center by calling us toll-free at 1-855-730-SAVE (1-855-730-7283) for Marcus deposits, Insights and related Products, for Marcus lending Products by calling us toll-free at 1-844-MARCUS2 (1-844-627-2872) for personal loans and MarcusPay or 1-833-906-2224 for small business loans, or 1-833-720-MINV (1-833-720-6468) for Invest.

SECTION 27. EXPORT CONTROLS

You are responsible for complying with United States export controls and for any violation of such controls, including any United States embargoes or other federal rules and regulations restricting exports. You represent, warrant and covenant that you are not (a) located in, or a resident or a national of, any country subject to a U.S. government embargo or other restriction, or that has been designated by the U.S. government as a “terrorist supporting” country; or (b) on any of the U.S. government lists of restricted end users.

SECTION 28. APPLE-SPECIFIC TERMS

If you are using an iOS version of the Service, the following shall apply: In addition to your agreement with the foregoing terms and conditions, and notwithstanding anything to the contrary herein, the following provisions apply with respect to your use of any software application made available as part of the Service that is compatible with the iOS operating system of Apple Inc. (“Apple”). For purposes of this Section 28, such application is referred to as the “App.” Apple is not a party to these Terms and does not own and is not responsible for the App. Apple is not providing any warranty for the App except, if applicable, to refund the purchase price for it. Apple is not responsible for maintenance or other support services for the App and shall not be responsible for any other claims, losses, liabilities, damages, costs or expenses with respect to the App, including any third party product liability claims, claims that the App fails to conform to any applicable legal or regulatory requirement, claims arising under consumer protection or similar legislation, and claims with respect to intellectual property infringement. Any inquiries or complaints relating to the use of the App, including those pertaining to intellectual property rights, must be directed to us as follows: by mail to our Notice Address, by email to marcus-app-support@gs.com, or by contacting us at 1-844-627-2872 (toll-free). The license you have been granted herein is limited to a non-transferable license to use the App on an Apple-branded product that runs Apple’s iOS operating system and is owned or controlled by you, or as otherwise permitted by the Usage Rules set forth in Apple’s App Store Terms of Service. In addition, you must comply with the terms of any third party agreement applicable to you when using the App, such as your wireless data service agreement. Apple and Apple’s subsidiaries are third party beneficiaries of these Terms and, upon your acceptance of the terms and conditions of these Terms, will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary thereof;

notwithstanding the foregoing, our right to enter into, rescind or terminate any variation, waiver or settlement under these terms is not subject to the consent of any third party.

SECTION 29. PATRIOT ACT

To help the government fight the funding of terrorism and money laundering activities, federal law requires we obtain, verify, and record information that identifies each person who creates a relationship. Meaning, when you create a relationship, we may ask for your name, address, date of birth and/or other information that will allow us to identify you.

© 2021 The Goldman Sachs Group, Inc. unless otherwise noted. All rights reserved.

Marcus by Goldman Sachs® is a brand of Goldman Sachs Bank USA and GS&Co., which are subsidiaries of The Goldman Sachs Group, Inc. All loans and deposit products provided by Goldman Sachs Bank USA, Salt Lake City Branch. Member FDIC. Brokerage and investment advisory services offered by Invest are provided by GS&Co., which is an SEC registered broker-dealer and investment adviser, and member [FINRA](#)/[SIPC](#).