

# OXYGEN SAVINGS ACCOUNT AGREEMENT [CONSUMER]

EFFECTIVE November 18, 2021

PLEASE READ THIS DOCUMENT CAREFULLY

## Table of Contents

- I. Savings Account Agreement and Disclosures
  - A. Our Agreement
  - B. Savings Account Basics
  - C. General Rules Governing Savings Accounts
  - D. Truth in Savings Disclosures

## I. SAVINGS ACCOUNT AGREEMENT AND DISCLOSURES

### A. Our Agreement

This document contains the terms and conditions of the Oxygen Savings Account Agreement (the "Agreement") for the optional savings account ("Oxygen Savings" or "Savings Account") made available to eligible consumers by The Bancorp Bank, Wilmington, Delaware, member of the Federal Deposit Insurance Corporation ("FDIC") ("The Bancorp Bank", the "Bank" or "Issuer") on behalf of Oxygen, Inc. DBA Oxygen ("Oxygen"). Oxygen is the program partner responsible for managing the Savings Account and its related demand deposit account ("Oxygen Consumer Deposit Account"). "We", "our", and "us" refer to the Bank, our successors, affiliates, or assignees. "You", "your" refer to the owner of the Savings Account.

The Oxygen Consumer Deposit Account ("Deposit Account") is the demand deposit account available from The Bancorp Bank. The optional Savings Account, which is an interest-bearing savings account, is available to holders of the Oxygen Consumer Deposit Account.

The holder of an Oxygen Consumer Deposit Account may submit the request to open a Savings Account through the Oxygen Mobile Application (the "App"). The Oxygen Savings Account is not designed for business use, and we may close the Savings Account if we determine it is being used for business purposes. We may refuse to process any transaction(s) we believe may violate the terms of this Agreement.

#### **Business Days**

Our business days are Monday through Friday, excluding federal holidays, even if we are open. Any references to "days" found in this Agreement are calendar days unless indicated otherwise.

### B. Savings Account Basics

#### 1. Who is eligible for an Oxygen Savings Account

- The optional Savings Account is available only to citizens and permanent residents of the fifty (50) United States ("U.S.") and the District of Columbia who are at least 18 years of age with a valid Social Security Number who are holders of an Oxygen Consumer Deposit Account. You must agree to accept electronic, rather than paper statements. This means (i) you must keep us supplied with your valid email address and (ii) you must agree to accept electronic delivery of all account communications (like end-of-year tax forms and monthly statements).
- To open a Savings Account, your Oxygen Consumer Deposit Account must be open and active. Your Savings Account will be considered opened on the day we receive your first deposit.
- We may use information from third parties to help us determine if we should open the Savings Account.

2. **Oxygen Savings** is an online Savings Account available only to those persons who have an open and active Oxygen Consumer Deposit Account.

3. **Savings Account Titling and Ownership**

A Savings Account may only be owned and titled in the name of one (1) person who shall solely retain the right to direct the deposit or transfer of funds. The Savings Account cannot be owned or titled jointly, by an organization, as Payable on Death (“POD”) or “In Trust For” (“ITF”).

4. **Death or Incapacitation**

You or your appointed party, designee, or appointed individual agree to notify us promptly if you become legally incapacitated, are deemed incompetent, or die. We will continue to accept deposits and process transaction instructions into and from the Savings Account until we are: (a) notified of your death or adjudication of incompetency and (b) have a reasonable opportunity to act. You agree that, even if we have knowledge of your death we may pay or process transactions involving the Savings Account on or before the date of death for up to ten (10) days after that date unless ordered to stop by someone claiming interest in the Savings Account. We may require additional documentation to confirm any claims made on the Savings Account.

5. **Our Relationship With You**

This Agreement and the deposit relationship do not create a fiduciary relationship.

6. **Privacy Policy**

Our privacy policy is available at [getoxygen.com/legal](http://getoxygen.com/legal) and is considered part of this Agreement.

**C. General Rules Governing Savings Accounts**

The Savings Account and your obligations under this Agreement may not be assigned. We may transfer our rights under this Agreement. Use of the Savings Account is subject to all applicable rules and customs of any clearinghouse or other association involved in transactions. We do not waive our rights by delaying or failing to exercise them at any time. If any provision of this Agreement shall be determined to be invalid or unenforceable under any rule, law, or regulation of any governmental agency, local, state, or federal, the validity or enforceability of any other provision of this Agreement shall not be affected. This Agreement will be governed by the law of the State of Delaware except to the extent governed by federal law.

1. **Deposits to the Savings Account**

Deposits to the Savings Account may be made by:

- Making one-time Online Transfers from your Oxygen Consumer Deposit Account by using the App; or
- Using the optional “Automatic Savings” features, subject to the separate “Oxygen Automatic Savings Agreement.” With Automatic Savings, Oxygen will initiate transfers to your Oxygen Savings on your behalf through one of two “Savings Goal Rules” below:
  - **“Round Up Spare Change”** transfers (described in more detail in the “Automatic Savings Agreement”), which can be between \$0.01 and \$9.99 each, to be deducted from your Deposit Account balance, with the particular amount of the Round Up Spare Change transfer to be based on both: the amount of the underlying eligible purchase you made with the Deposit Account, and the selected Spare Change Accelerator chosen for each “Savings Goal,” an optional feature in which you can allocate funds within the Savings Account to help track or save towards certain goals set by the accountholder. The allocated funds towards a Savings Goal(s) remain in the Oxygen Savings Account, and are included as part of the total balance of the Savings Account. The accountholder can manually allocate funds within the Savings Account to specific Savings Goals, or can set up automatic transfers from the Deposit Account by utilizing Savings Goal Rules.
  - **“Save When You Get Money”** transfers (described in more detail in the “Automatic Savings Agreement”), which allows accountholders to automatically transfer a select percentage or specific dollar amount of qualified deposits from your Deposit Account to your Savings Account.

- Oxygen may offer additional Automatic Savings methods and bonuses besides those described in the Savings Account Agreement and Automatic Savings Agreement that have additional eligibility and requirements and disclosures.

See the paragraph labeled “2. *Transaction Limitations*” in Section D for additional details about deposits. To the extent there is an inconsistency between this Agreement and the Oxygen Automatic Savings Agreement, the Oxygen Automatic Savings Agreement shall control only with respect to the Automatic Savings features.

**2. Withdrawals from your Savings Account**

You may withdraw funds from the Savings Account by transferring funds to your Oxygen Consumer Deposit Account using the App (these transfers are referred to as “Online Transfers”).

We reserve the right to require seven (7) days written notice before you withdraw money from your Savings Account.

**3. Preauthorized Transfers**

The account number of the Savings Account cannot be used for preauthorized direct debits (“ACH Debits”) from merchants, Internet service or other utility service providers (“Merchants”). If presented for payment, ACH Debits will be declined and payment to the Merchant will be returned.

**4. Right to Set Off**

If the balance of your Oxygen Consumer Deposit Account should become negative and then remain negative for fifteen (15) days, the funds, if any, in your Savings Account may be used to repay the negative balance. This means we have the right to set-off any liability, direct or contingent, past, present or future that you owe against any account you have with us. Further, you grant us a lien on and security interest in the funds on deposit in each of your account(s) as security for all of your liabilities and obligations to us, now or in the future. We will notify you by email if we have exercised our right to set off.

**5. Our Right to Place a Hold on Funds Under Special Circumstances**

If the Bank's monitoring of the Savings Account detects activity which is believed to be prohibited by the Bank and/or by law, the Savings Account funds will be subject to a hold pending review of the activity by the Bank and/or Oxygen. The Bank and/or Oxygen may require you and other parties to the activity to produce documents and/or other materials evidencing the validity of the activity. Funds on deposit in any account are subject to the hold at the Bank's discretion until the source of such funds and/or the activity is properly verified.

**6. Legal Processes Affecting Savings Accounts**

If legal action such as a garnishment, levy or other state or federal legal process (“Legal Process”) is brought against the Savings Account, we may refuse to permit (or may limit) transfers from it until the Legal Process is satisfied or dismissed. Regardless of the terms of such garnishment, levy or other state or federal process, we have first claim to any and all funds in your Savings Account. We will not contest on your behalf any such Legal Process and may take action to comply with such Legal Process as we determine to be appropriate in the circumstances without liability to you, even if any funds we may be required to pay out leaves insufficient funds for a transfer you have authorized. Payment is made after satisfying any fees, charges or other debts owed to us. You agree that you are responsible for any expenses, including legal expenses and fees we incur due to any Legal Process affecting your Savings Account. We may charge these expenses to your Savings Account. You will indemnify us for any losses if we do this.

**7. Account Inactivity**

A Savings Account with a zero balance or no customer initiated activity for nine (9) continuous months is considered inactive and is subject to closure. Customer initiated activity includes any deposits to or one-time transfers (“Online Transfers”) you make from the Savings Account. For additional details about closing the Savings Account, see the paragraph labeled “6. *Amendment and Cancellation*” in Section D.

**8. Statements**

Electronic statements are available to view and download in the App. Savings Account statements are considered to be correct. Carefully review your statement each statement cycle and notify us of any errors within sixty (60) days of your statement becoming available. You also have a right to obtain a sixty (60) day history of your Savings Account transactions by calling us at (866) 287-7021, or by sending an email message to support@getoxygen.com. You will not automatically receive paper statements.

**9. Backup Withholding**

Federal law requires us to have a correct Social Security Number (SSN) on every account, and the Internal Revenue Service (IRS) requires you to certify to us whether you are subject to backup withholding. If you are subject to backup withholding, you do not furnish us with the correct SSN, you do not properly certify that you are not subject to backup withholding, or if the IRS notifies us that we do not have a correct SSN for your Account, we may close the Account. Amounts withheld are reported to the IRS as federal income tax withheld, and will be reflected on your year-end 1099-INT Interest Income Statement. You will not be eligible to apply for a new Savings Account until ninety (90) days after the date of closure.

**D. TRUTH IN SAVINGS DISCLOSURES**

**1. Opening Deposit and Balance Requirements**

There is no minimum deposit requirement to open a Savings Account. While there are no minimum or maximum balance requirements, a Savings Account with a zero balance for nine (9) continuous months will be subject to closure. See the paragraph labeled "6. Amendment and Cancellation" in Section D below for additional details.

**2. Transaction Limitations**

**Deposits** to the Savings Account may be made by using any of the below methods. These are the limits:

Transaction Type	Frequency and/or Dollar Limits
Online Transfer from Oxygen Consumer Deposit Account to Savings Account	No limit to the number of times per calendar day; no maximum dollar limit

**Withdrawals** may only be made by making Online Transfers from the Savings Account to your Oxygen Consumer Deposit Account.

**3. Rate Information**

This is a fixed rate Savings Account. The interest rate and annual percentage yield ("APY") that will be applied to your Savings Account is determined by your Oxygen "Elements" Loyalty Program ("Program") tier. There are four Program tiers: (1) Earth; (2) Water; (3) Air; and (4) Fire. Please refer to the Deposit Account Agreement that governs your Deposit Account for more information on the Program, tiers, and eligibility requirements for each tier.

The current interest rate and APY for the Savings Account appears in the Interest Rate Schedule shown below, based on your applicable Program tier. This interest rate will be paid only for that portion of your daily balance that is equal to or less than \$20,000. If your daily balance is greater than \$20,000, you will not earn any interest on the portion of the balance in excess of \$20,000.

Program Tier	Interest Rate for Portions of Daily Balance \$20,000 or Less	Annual Percentage Yield (APY) for Portions of Daily Balance \$20,000 or Less	Interest Rate for Portions of Daily Balance above \$20,000	Range of Annual Percentage Yield (APY) for Portions of Daily Balance above \$20,000
Earth	0.25%	0.25%	0.00%	0.25% to 0.04%
Water	0.75%	0.75%	0.00%	0.75% to 0.13%
Air	1.00%	1.00%	0.00%	1.00% to 0.17%
Fire	1.24%	1.25%	0.00%	1.25% to 0.21%

If your Program tier changes at any time, the interest rate and APY applicable to your new tier will become effective on the first business day of the Enrollment Period of your new tier. Please refer to the Deposit Account Agreement that governs your Deposit Account for more information on the Enrollment Period and changes to your Program tier.

Interest begins to accrue no later than the business day the deposit is applied to the Savings Account. Interest will be compounded on a daily basis and credited monthly, on the first day of the following month. The interest rates and APYs will be in effect for at least 30 calendar days. We will notify you in advance of any changes.

#### 4. Balance Information

We use the daily balance method to calculate the interest on your Savings Account. This method applies a daily periodic rate to the principal and interest that has been accrued to the account each day. The daily periodic rate is calculated by dividing the interest rate by three hundred sixty-five (365) days, or three hundred sixty-six (366) in leap years. There are no minimum or maximum balance restrictions on the Savings Account.

#### 5. Funds Availability

All Online Transfers are completed electronically. You will have immediate availability to your funds once they are transferred from the Savings Account to your Oxygen Consumer Deposit Account, or from the Consumer Deposit Account to the Savings Account.

#### 6. Amendment and Cancellation

We may amend or change the terms and conditions of this Agreement at any time by posting the amended Agreement on [getoxygen.com/legal](http://getoxygen.com/legal), and any such amendment shall be effective upon such posting to that Website. The current Agreement is available at [getoxygen.com/legal](http://getoxygen.com/legal). You will be notified of any change in the manner provided by applicable law prior to the effective date of the change. However, if the change is made for security purposes, we can implement such change without prior notice. We may cancel or suspend your **Oxygen Savings Account** or this Agreement at any time. You may cancel this Agreement by calling (866) 287-7021 to close your **Oxygen Savings Account**. Your termination of this Agreement will not affect any of our rights or your obligations arising under this Agreement prior to termination.

If your Savings Account is cancelled, closed or terminated for any reason, any remaining balance will be transferred to your Oxygen Consumer Deposit Account. You will not be eligible to apply for a new Savings Account until ninety (90) days after the date of closure. If your Savings Account is closed prior to the end of the statement cycle, any accrued interest earned for that statement cycle will be forfeited.

**Important:** If your Oxygen Consumer Deposit Account is closed for any reason; the Savings Account will automatically be closed. Upon closure, any remaining funds in the Savings Account, including any

interest payments due to you, will be aggregated with the remaining funds in your Oxygen Consumer Deposit Account. The aggregated funds will then be made available for refund in accordance with the terms of the paragraph labeled "9. *Amendment and Cancellation*" found in Section C of your Oxygen Consumer Deposit Account Agreement where we describe the process of closing your Oxygen Consumer Deposit Account and refunding the account balance.

If your Savings Account is cancelled, closed or terminated for any reason, and you are still eligible to open a Savings Account, you may open a new Savings Account. You will not be eligible to apply for a new Savings Account until ninety (90) days after the date of closure. Only one active Savings Account is allowed per customer.

#### **7. Our Liability for Failure to Complete Transactions**

If we do not properly complete a transaction between your Savings Account and your Oxygen Consumer Deposit Account on time or in the correct amount according to our Agreement with you, we will be liable for your losses or damages. However, there are some exceptions. We will not be liable, for instance:

- 1) If through no fault of ours, you do not have enough funds available in your Savings Account to complete the Online Transfer;
- 2) If access to your Savings Account or Oxygen Consumer Deposit Account has been blocked after you reported your Card or Oxygen Consumer Deposit Account number lost or stolen;
- 3) If there is a hold or your funds are subject to legal or administrative process or other encumbrance restricting their use;
- 4) If we have reason to believe the requested transaction is unauthorized;
- 5) If circumstances beyond our control (such as fire, flood, or computer communication failure) prevent the completion of the transaction, despite reasonable precautions that we have taken; or
- 6) Any other exception stated in our Agreement with you.

#### **8. Confidentiality**

We may disclose information to third parties about your Savings Account or the transactions you make:

- 1) Where it is necessary for completing transactions;
- 2) In order to verify the existence and condition of your Savings Account for a third party;
- 3) In order to comply with government agency, court order, or other legal or administrative reporting requirements;
- 4) If you consent by giving us your written permission;
- 5) To our employees, auditors, affiliates, service providers, or attorneys as needed; or
- 6) Otherwise as necessary to fulfill our obligations under this Agreement.

#### **9. Information About Your Right to Dispute Errors**

If you believe your Savings Account number has been lost, stolen, or compromised in any way, or someone has transferred or may transfer money from your Savings Account without your permission, contact us immediately by calling (866) 287-7021 or emailing us at [claims@getoxygen.com](mailto:claims@getoxygen.com). While the nature and frequency of transactions into and out of your **Oxygen Savings Account** are described in this Savings Account Agreement, please see Section II ELECTRONIC FUNDS TRANSFER DISCLOSURE AND SPECIAL TERMS AND CONDITIONS, of the Oxygen Consumer Deposit Account Agreement where your liability for unauthorized transfers from the Oxygen Consumer Deposit Account is explained.

#### **10. Customer Service**

For customer service assistance or additional information regarding your **Oxygen Savings Account**, please call us at (866) 287-7021 or email us at [support@getoxygen.com](mailto:support@getoxygen.com).

Customer service agents are available to answer your calls:

Monday through Friday, 10 a.m. to 10 p.m. ET (holidays excluded)  
Saturday and Sunday, 10 a.m. to 10 p.m. ET (holidays excluded)

## 11. Telephone Monitoring/Recording

From time to time we may monitor and/or record telephone calls between you and us to assure the quality of our member service team or as required by applicable law.

## 12. Arbitration

This Arbitration Clause sets forth the procedures for resolving a Claim under this Agreement. As used in this Arbitration Clause, a “**Claim**” is any preexisting, present or future claim, dispute, or controversy between you and us arising out of or relating directly or indirectly in any way to this Agreement. The term “Claim” has a very broad meaning and includes, by way of example and not limitation, disputes concerning: (i) the acquisition, use, or balance of your Account; (ii) advertisements, promotions or oral or written statements related to the Account (iii) a dispute based on a federal or state statute or local ordinance; (iv) data breach or privacy claims arising from or relating directly or indirectly to the disclosure by us of any non-public personal information about you; and (v) the relationships between you and us arising from this Agreement or any of the foregoing. Notwithstanding the foregoing, a “Claim” does not include (i) the exercising of any self-help or non-judicial remedies by you or us, meaning actions you or we can take that do not involve court action. Examples of this include setoff rights or enforcement of our security interest in your Account, (ii) disputes regarding a person’s authority to act on your Account and disputes regarding ownership of funds and other legal matters dealing with “legal process” or “legal proceedings and disputes”; and (iii) obtaining provisional or ancillary remedies including, but not limited to, attachment, garnishment, interpleader or the appointment of a receiver by a court of appropriate jurisdiction.

This Arbitration Clause provides that all Claims shall be **FINALLY** and **EXCLUSIVELY** resolved by binding individual arbitration, unless excepted or opted out in accordance with the terms below.

By not opting out according to the terms below, you acknowledge that:

1. **YOU AND WE WILL BE BOUND BY THIS CLAUSE TO ARBITRATE ANY CLAIM IF YOU OR WE ELECT ARBITRATION, UNLESS THE CLAIM IS BROUGHT IN OR REMOVED TO SMALL-CLAIMS COURT PURSUANT TO THIS ARBITRATION CLAUSE;**
2. **NEITHER PARTY WILL HAVE THE RIGHT TO A JURY TRIAL OR TO ENGAGE IN DISCOVERY, EXCEPT AS PROVIDED FOR IN THE AAA CODE OF PROCEDURE; AND**
3. **YOU AND WE WILL NOT BE ABLE TO BRING OR BE A CLASS MEMBER IN A CLASS ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE ACTION IN COURT OR IN ARBITRATION (“Class Action Waiver”).**

Arbitration: In arbitration, a neutral third-party arbitrator resolves Claims on an individual basis. Arbitrations under this Arbitration Clause will be made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act (“FAA”) (9 U.S.C. 1-16). An arbitration of a Claim will be conducted by the American Arbitration Association (“AAA”) under its rules; if AAA cannot serve and we do not agree on an alternative arbitrator, a court with jurisdiction will select the arbitrator. For a copy of AAA procedures, to file a Claim, or for other information about this organization, contact AAA at 120 Broadway, Floor 21, New York, NY 10271, (1-800-778-7879), [www.adr.org](http://www.adr.org). **We will pay the initial filing fee to commence arbitration and other fees we are required to pay by the AAA Rules, and any arbitration hearing that you attend shall take place in the federal judicial district of your residence.** The arbitrator’s award shall be binding and final, except for any appeal rights under the FAA. Judgment on the arbitration award may be entered in any court having jurisdiction.

Alternative for Individual Claims: This Arbitration Clause does not affect your or our right to pursue individual Claims in small claims court (or your state’s equivalent court) if the court has jurisdiction over the dispute and the dispute remains in that court. If a party brings a Claim in arbitration, the other party may remove the Claim to small-claims court if the amount in controversy (exclusive of attorneys’ fees and costs if applicable law so provides) is properly within the jurisdiction of a small-claims court. The opposing party must provide notice of intent to remove to small-claims court within 30 days of receiving an arbitration demand from the other party. In any event, if the Claim is removed, appealed or transferred from small-claims court to another court, it shall be subject to arbitration at the election of either party.

Enforceability: All disputes as to the scope, enforceability and validity of this Arbitration Clause shall be made exclusively by a court of competent jurisdiction.

Process: Before bringing a Claim in court or in arbitration, the complaining party must give the other party written notice of the Claim. If you are the complaining party, you must send the notice in writing (and not electronically) to PO Box 477, San Francisco, CA 94105. You or your representative must sign the notice and must explain the nature of the Claim and any supporting information, such as your Account number and a contact information where you (or your representative) can be reached. If we bring a Claim, we will send a letter to you using the information we have on file for you. The receiving party will have 30 days to respond to the demand.

Opting out: If you do not wish to be bound by this Arbitration Clause, you must mail us a signed notice within 45 calendar days after you acquire or open the Account to support@getoxygen.com. We will need your name, address, telephone number and Account number. State that you “opt out” of arbitration. Opting out will not affect the other provisions of this Agreement. By opting out, you will have all options available under law to raise a dispute or Claim.

Survival: This Arbitration Clause shall survive: (i) termination of the Agreement by either party; (ii) the bankruptcy of any party; (iii) any transfer, sale or assignment, or any amounts owed on your Account, to any other person or entity; or (iv) closing of the Account. If any portion of this Arbitration Clause is deemed invalid or unenforceable, the remaining portions shall remain in force, except that: (A) If the Class Action Waiver is declared unenforceable in a proceeding between you and us with respect to a Claim that does not seek public injunctive relief, and that determination becomes final after all appeals have been exhausted, this entire Arbitration Clause (except for this sentence) shall be null and void in such proceeding; and (B) If a Claim is brought seeking public injunctive relief and a court determines that the restrictions in this Arbitration Clause prohibiting the arbitrator from awarding relief on behalf of third parties are unenforceable with respect to such Claim, and that determination becomes final after all appeals have been exhausted, the Claim for public injunctive relief will be determined in court and any individual Claims seeking monetary relief will be arbitrated. In such a case the parties will request that the court stay the Claim for public injunctive relief until the arbitration award pertaining to individual relief has been entered in court. In no event will a Claim for class-wide or public injunctive relief be arbitrated.