

# AMERICAN EXPRESS BUSINESS CHECKING

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## **AMERICAN EXPRESS BUSINESS CHECKING**

The Business Checking Account Agreement  
Terms and Conditions of your Account  
(Effective December 10, 2021)

### **Important Agreement - Please Read Carefully**

#### **SECTION 1 THIS AGREEMENT**

This document is an agreement between American Express National Bank and the business named as the owner of the business checking account that you open and maintain with us (this "Agreement"). This Agreement establishes the terms and conditions governing any such business checking account you open and maintain with us (referred to as the "Account," whether one or more). Please read this Agreement carefully. By clicking the "SUBMIT" button and submitting your application to open your Account online or by otherwise opening, using, or continuing to have your Account with us, you agree to the terms and conditions in this Agreement. You also specifically agree that you will only use the Account for lawful business purposes, and not for any personal, family or household purposes. You also agree not to initiate (and not to allow any other persons to initiate) any transactions on the Account that would violate the laws of the United States (including but not limited to sanctions enforced by the Office of Foreign Assets Control (OFAC) and the U.S. Department of Treasury).

#### **SECTION 2 CERTAIN DEFINITIONS**

Unless the context requires otherwise, as used in this Agreement, the words "we," "our," "us" and "Bank" mean American Express National Bank. The words "you" and "your" means the business which is the Account owner. "Business Day" means every day except Saturdays, Sundays, and federal holidays. The headings in this document are for convenience or reference only and will not govern the interpretation of the provisions. Unless it would be inconsistent to do so, words and phrases used in this document should be construed so the singular includes the plural, and the plural includes the singular.

#### **SECTION 3 ELECTRONIC ACCOUNT COMMUNICATIONS (INCLUDING IRS TAX FORMS 1099)**

We intend to provide disclosures, notices, Account statements, and other Account-related communications (including without limitation this Agreement, interest rate and fee information for your Account, funds availability and privacy notices, notices of modifications or changes to any of the foregoing, and IRS Form 1099-INT Interest Income statements) electronically (including through our secure online banking portal and/or by email, as described more fully below), instead of in paper form by U.S. mail. If you do not agree to receive all disclosures, notices, Account statements, and other Account-related communications (collectively referred to as "Account Communications") electronically from us as described below, you should not open or maintain an Account with us.

##### **3.1 System and Other Requirements for Receiving Electronic Account Communications**

To receive Account Communications from us in electronic form, you must provide us a "Designated Email Address" (as defined in the "Designated Email Address" section of this Agreement below) and satisfy the "System Requirements" (as defined in the "System Requirements" section of this Agreement below). We may provide Account Communications electronically through any combination of: (1) your Designated Email Address, or (2) links or downloadable files (including those in PDF format) provided through our secure online banking portal. Account Communications will be deemed to have been delivered on the first Business Day after we made such communications available electronically.

### **3.1.1 Designated Email Address**

By applying for, opening and maintaining an Account with us, you certify the email address you provide for the Account is your email address, and you want us to use it to provide Account Communications electronically ("Designated Email Address"). You agree to maintain each Designated Email Address until you provide us with a new one through our secure online banking portal. If you authorize someone else to access your Designated Email Address, you agree to tell them to share Account Communications with you promptly and you accept the risk that they will see your sensitive information.

### **3.1.2 System Requirements**

To access and retain Account Communications, you must have a working Designated Email Address and a computing or communications device with all of the following (collectively the "System Requirements"):

- working Internet access
- a Web browser that supports 128-bit encryption (such as Chrome®, Firefox®, Internet Explorer®, or Safari®)
- 16 MB of available memory (32 MB of RAM recommended)
- a program that can view, save and print PDF files (such as Adobe® Reader® 4.0 or higher)

By applying for, opening, and maintaining an Account with us, you confirm that you meet all of the above System Requirements.

### **3.1.3 Proper Equipment**

You are responsible for obtaining and maintaining all telecommunications, mobile, broadband, computer, hardware, software, equipment and services needed to access and use your Account online; view, save and/or print your Account documents online; and receive any messages, documents and other Account Communications we provide to you electronically; and for paying all related charges.

## **3.2 Withdrawal of Consent**

At any time after opening an Account, if you wish to withdraw your agreement to receive Account Communications electronically as described in this section, you must notify us either through our secure online banking portal in your "Manage" settings, or by calling us at 1-855-497-1040. Alternatively, you may notify us in writing at: PO BOX 30381 SALT LAKE CITY UT 84130-9997. We will notify you in writing (either electronically or in paper form) when we have confirmed the withdrawal. If you have more than one Account with us, any such withdrawal of consent to receive Account Communications electronically will be effective for all of your Accounts. Any such withdrawal of consent to receive Account Communications electronically will not affect the validity or enforceability of any Account Communications already provided or in process of being provided electronically. IF WE RECEIVE A WITHDRAWAL OF CONSENT TO RECEIVE ACCOUNT COMMUNICATIONS ELECTRONICALLY, WE WILL CLOSE YOUR ACCOUNT (AND, IF YOU HAVE MORE THAN ONE ACCOUNT, ALL OF YOUR ACCOUNTS AND RETURN ANY AND ALL FUNDS IN SUCH ACCOUNT(S) TO YOU.

## **3.3 Changes to System or Other Requirements**

We reserve the right to modify the System Requirements described above at our discretion. We will provide you with notice of such modification(s) electronically in a manner consistent with other electronic Account Communications. If you do not agree to the modification(s), you must notify us of your withdrawal of consent to receive Account Communications electronically, as described above, before the effective date of the modification(s).

Failure to notify us (or to take any other required action as stated in the notice of modification(s)) by the effective date will confirm your continued agreement to receive Account Communications electronically and your agreement to the modification(s).

### **3.4 Our Right to Send Paper**

In our discretion, at our option, we may choose to send Account Communications in paper form from time to time, using U.S. mail. For example, but without limitation, we may do this if we have a system outage, if we suspect fraud, or if for any reason your Designated Email Address does not accept emails from us.

### **3.5 Sending Account Communications and Updating and Viewing Account Information**

Regardless of how we choose to send Account Communications, we may send them to the attention of or address associated with the person who completed the online application for the Account (according to our records), and that person who completed the online application for the Account shall be responsible for providing copies of such Account Communications to any other owners and principals on the Account. Any Account Communication we send to the attention of, or address associated with, one owner or principal on the Account will be considered notice to all owners and principals on that Account. You are responsible for reviewing all Account Communications in a timely manner.

If any Account Communication is returned to us because of an incorrect postal address or an incorrect, changed, or expired email address, we may stop delivering Account Communications until a valid address is provided.

We are not responsible for items lost in, or not delivered by, mail or email.

You agree to establish a username and password and to regularly (at least once every five (5) Business Days) log in to our secure online banking portal to view and update information about your Account, including recent Account transactions. (See also the "Account Security" section below.)

You agree to notify us immediately through our secure online banking portal of any change in your contact information, including address, email address, and/or telephone number. We may rely on any electronic instructions purportedly made by you or on your behalf (or on behalf of your successors or assigns) to change your contact information without liability. You also agree that if a third-party vendor or the U.S. Postal Service or one of its agents notifies us of a change in your postal address, we may change your address based on that information. The Bank will have no liability to you for changing your address based on such information, even if such information is in error.

### **3.6 Access to Copies of Account Communications**

We retain copies of Account Communications for the time periods required by law and will provide you with copies of these upon telephone or written request within those time periods, subject to any applicable fees. We do not necessarily retain copies for longer than is required by law. Save or print copies of all Account Communications to ensure you have them when needed.

## **SECTION 4 OPENING YOUR ACCOUNT, ACCOUNT INFORMATION**

### **4.1 Identifying You and Your Business**

To open an Account, you must apply for an Account online at <https://www.americanexpress.com/en-us/banking/business/checking/apply/welcome>. To help the United States Government fight terrorism and money laundering, federal law requires us to obtain, verify, and record information that identifies each person that opens an Account. What this means for you: when you open an Account, we will ask you for your name, street address, and date of birth, and other information that will allow us to verify your identity. To open an Account with us, you must be at least 18 years old, a U.S. citizen or a resident alien with a valid Social Security number (SSN) or other taxpayer

identification number (TIN) and have a physical business street address in the United States, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa or Northern Mariana Islands. We may also ask to see a copy of your driver's license or other government-issued identifying documents that will allow us to identify you.

Federal regulations also require that we obtain, verify, and record information concerning the beneficial owners of a legal entity at Account opening. You may also be asked to provide this information at other times upon our request. You may also be asked to provide additional information about your business, including, but not limited to, annual revenue, industry/line of business information and/or account activity. If at any time we determine that the beneficial ownership information you provided to us was false, incorrect, or of concern to the Bank, or if you refuse to provide us with any other information when requested, we may decline your Account application, or if we have already opened Accounts we may close or freeze any or all of your Accounts.

You agree that when you open an Account, you have accurately represented to us that you are authorized to do business in the manner indicated and that the acts of each person opening the Account have been properly ratified and authorized. You agree that we may rely on such representations without requiring additional information or documentation and that you will furnish such information upon request.

## **SECTION 5 OWNERSHIP OF ACCOUNT**

We reserve the right to refuse some types of Account owners and businesses (including without limitation, types of Account owners that are not described below). As of August 23, 2021, we cannot offer or provide Accounts to businesses with (1) any beneficial owner who lives outside the United States or (2) any beneficial owner who does not have a Social Security Number (SSN). Accounts are generally expected to be opened and maintained as (i) corporate or limited liability company accounts; (ii) partnership accounts; (iii) unincorporated association accounts; or (iv) sole proprietorship accounts. We do not offer Accounts to (for example) trusts, retirement or employee benefit plans, financial services companies, or governmental entities. We also do not offer Accounts that are subject to special federal or state regulation, including (for example) Interest on Lawyers Trust Accounts, Interest on Real Estate Trust Accounts, preneed funeral or cemetery accounts, landlord-tenant security deposit accounts, and similar types of escrow, custodial, fiduciary or quasi-fiduciary accounts.

### **5.1 Authorized Person**

You, the applicant who completes the online application to open the Account, will be the only individual entitled to deposit, withdraw, transfer or otherwise exercise control over funds in the Account. (See also the "Account Security" section below.)

### **5.2 Accounts Owned by a Natural Person, Sole Proprietorship, or Single Member LLC**

Please notify us quickly once you learn of the death or incompetency of an individual Account owner. If an individual Account owner dies or becomes legally incompetent, we may continue to honor all instructions and funds transfer requests from such an Account owner until: (a) we know, with reasonable certainty, of the death or legal incompetence of such an Account owner, and (b) we have had a reasonable opportunity to act on that knowledge. You agree that we may honor funds transfers requested or initiated on or before the date of death or legal incompetence of an individual Account owner for up to ten (10) calendar days after we determine that death or legal incompetence occurred unless we are ordered to stop payment by someone with or claiming a legitimate interest in the Account. We may require reasonable proof of death or adjudication of incompetence. We may restrict access to an Account in the name of a natural person, a sole proprietorship, or a single member LLC owned by an individual that is disregarded as a separate legal entity for U.S. federal tax purposes upon notice of the death or legal incompetence of such natural person or individual until the appropriate documentation is provided to us by an executor, administrator or legal representative of such natural person or individual.

### **5.3 Security Interest**

You agree to grant us and our subsidiaries and affiliates a security interest in your Account and any other asset, deposit account or other property you have or maintain with us or any of our subsidiaries and affiliates, as security for any and all amounts you owe to us or any of our subsidiaries or affiliates, whether now or in the future. You agree that the security interest you have granted in this Agreement is consensual and is in addition to the right of set-off, as described below. We (including our subsidiaries and affiliates) may exercise rights under this security interest without recourse to other collateral, if any, even if such exercise causes you to lose interest or incur any other consequence. A failure to demand payment does not waive any rights under this security interest. If any funds in your Account are exempt from execution, levy, attachment, garnishment, seizure, set-off or other equitable process, you agree to waive such exemption to the extent permitted by applicable law. The security interest may not apply to your Account if the debt is created under the terms of a consumer credit card agreement, or if the granting or exercise of a security interest in your Account is prohibited by applicable law.

### **5.4 Right of Set-Off**

If You owe us or any of our subsidiaries or affiliates money and that money is due, you agree to grant us the right, on our own behalf and on behalf of our subsidiaries and affiliates, to the maximum extent permitted by applicable law, to withhold or withdraw (set-off) from your Account or any other asset, deposit account, or other property you have or maintain with us or any of our subsidiaries and affiliates, any amounts you owe to us or any of our subsidiaries and affiliates for use of another account that you have with us or any of our subsidiaries and affiliates, including without limitation any charge, credit or other payment account. We may exercise our right of set-off without recourse to other collateral, if any, even if our action causes you to lose interest or incur any other consequence. If we exercise our right of set-off, we will notify you to the extent required by applicable law. Our failure to demand payment does not waive any of our rights hereunder. If any funds in your Account are exempt from execution, levy, attachment, garnishment, seizure, set-off or other equitable process, you agree to waive such exemption to the extent permitted by applicable law. Our right of set-off may not apply to your Account if the debt is created under the terms of a consumer credit card agreement, or the right of set-off is prohibited by applicable law.

### **5.5 Transferring Account Ownership**

You may not transfer, assign or pledge any Account without our express written consent, which we may withhold in our sole discretion. Any transfer, assignment or pledge that we permit will be subject to our right of set-off and security interests to the fullest extent permitted by applicable law.

In addition, you may not grant a security interest in funds held in your Account in favor of any other creditor without obtaining our prior written approval, which we have the right to withhold for any or no reason. If any ownership interest in an Account is proposed to be transferred or if there is any change in Account ownership or title, we may require that the Account be closed, and a new Account be opened.

### **5.6 Disputed Ownership of an Account**

If we receive any conflicting instructions or claims to funds in an Account, we may, in our sole discretion: (a) restrict the Account and deny access to the funds; (b) hold the funds without liability to anyone until the conflicting claims are resolved to our satisfaction; (c) close the Account and send the funds to the Account owner according to our records at the address on our records; and/or (d) refer the matter to an appropriate court or arbitrator for judgment or decision. (See also the "Dispute Resolution" section at the end of this Agreement.) If we are notified of a dispute, we do not have to decide if the dispute has merit before we take any action. We may take these actions without any liability and without advance notice, unless required by applicable law.



## **5.7 Levies and Garnishments**

We must comply if we are served with any notice of garnishment or attachment, tax levy, injunction, restraining order, subpoena, or other legal process relating to your Account. If we incur any costs or fees (including attorney's fees and expenses) in connection with any notice of garnishment or attachment, tax levy, injunction, restraining order, subpoena, or other legal process relating to your Account, we may charge or assess these costs or fees against any deposit account you maintain with us, including the Account that is subject to the legal process. Levies and garnishments are subject to our right of set-off and security interests to the fullest extent permitted by applicable law.

## **SECTION 6 ACCOUNT SECURITY**

You, the Account owner, are responsible for limiting access to your Account (including your confidential User ID and password which are defined as "Account Access Information") and devices you use to sign in to your Account (including, but not limited to, laptops, desktops and mobile phones, all of which are defined as your "Security Devices"). You must supervise all people that you allow to access the Account and tell us immediately if you believe your Account Access Information or your Security Devices have been lost, stolen or used without authorization. You agree to promptly change your User ID and passwords and take all necessary and appropriate action if you believe your Account Access Information or Security Devices have been lost, stolen or used without authorization.

You are responsible for maintaining the confidentiality and security of your Account Access Information, blank checks and Security Devices, including (for example) any remote check deposit Security Device you use pursuant to the separate Remote Check Deposit Terms and Conditions attached. You agree to use strong, unique User IDs, passwords and personal identification numbers, change your passwords periodically, and take other reasonable precautions to protect the confidentiality and security of your Account Access Information and Security Devices. You agree to keep information about User IDs, passwords, personal identification numbers and other Account Access Information in appropriately secured sites and locations. We are not responsible or obligated for any of these security precautions.

You agree to log in to our secure online banking portal regularly (and at least once every five (5) Business Days to review pending and completed transfers for possible errors, unauthorized transfers, and similar matters. We may not be able to successfully initiate a return of an ACH funds transfer that debited your Account without your permission if you do not notify us promptly after the debit is posted to your Account.

### **6.1 Security Procedures**

We are authorized to accept and execute payment orders issued by you through our online banking portal to transfer funds to and from your Account. You acknowledge and agree that the Security Procedures (defined below) are commercially reasonable. You also agree to be bound by any payment order you issue, and we accept, in compliance with the Security Procedures (defined below).

You must comply with our Security Procedures (as defined below) for all payment orders placed to or from your Account through our online banking portal, which include providing your Account Access Information to log in to our online banking portal and other authentication and verification requirements we implement from time to time (the "Security Procedures"). You acknowledge and agree that these Security Procedures, including, without limitation, any code, personal identification number, token, certificate, or other element, means, or method of authentication or identification used in connection with the Security Procedures constitute commercially reasonable security procedures under any applicable law.

You authorize us to accept any payment orders and follow any related instructions you provide using these Security Procedures unless and until you notify us that your Account Access Information has been compromised and we have reasonable opportunity to act upon such notice. You acknowledge and agree that you will be bound by any

and all payment orders initiated through the use of such Security Procedures, whether authorized or unauthorized. You further acknowledge and agree that the Security Procedures are not designed to detect errors in your payment orders; you are solely responsible for detecting and preventing such errors.

You must tell us immediately if you believe a funds transfer or other Account transaction has been made without your permission, or that someone has transferred or may transfer money from your Account without your permission. You may notify us by telephone at 1-855-497-1040 if Account Access Information and/or Security Devices are lost or stolen.

We will investigate reports of unusual, fraudulent, unauthorized, erroneous or prohibited activity on your Account. We may require you to submit a claim form to aid in the investigation of any such activity and may require you to notify law enforcement. You agree to cooperate with us in the investigation of unusual, fraudulent, unauthorized, erroneous, prohibited, or similar transactions, and resolution of claims and disputes relating to or arising from any such transactions, including by providing, promptly upon request and at your own cost and expense, copies of relevant documents and records in your possession or control relating to such transactions. We can reverse any provisional credit made to your Account relating to any unusual, fraudulent, unauthorized, erroneous or prohibited activity on your Account if you do not cooperate fully with us in our investigation or recovery efforts, or we determine that the activity was not unusual, fraudulent, unauthorized, erroneous or prohibited activity on your Account. This paragraph will survive termination of your Account.

If you allow any third party to access your Account or any information about your Account, we will consider that third party to be an authorized agent of yours. For example, if you disclose to or share with any third party your online banking User ID and password or other Account Access Information or Security Device, that third party will be your authorized agent. You are solely responsible for all transactions and actions of your authorized agents, even if those actions go beyond the scope of your agreement with your authorized agents. Unless prohibited by applicable law, we are not responsible for any use or misuse of your Account or any loss, use or misuse of your Account information by any of your authorized agents, and we are not responsible for the accuracy of any Account information you receive from any third party (including without limitation one of your authorized agents).

We may choose in our sole discretion to block certain types of automated or third-party online access to your Account. For example, we may choose in our sole discretion to make our online banking website generally unavailable to third party account aggregator services and third-party automated data gathering and similar online tools.

## **6.2 Administrative Procedures**

The Bank does offer numerous controls that you may implement to reduce the risk of unusual, fraudulent, unauthorized, erroneous or prohibited activity (“Administrative Procedures”). These procedures (may include transaction limits and device registration, among others) may be supplemented and modified by the Bank from time to time. You acknowledge and agree that these Administrative Procedures are not part of the agreed to Security Procedures defined above.

## **SECTION 7 STATEMENTS**

Statements for your Account will be available online, electronically or otherwise made available to you monthly. Your first Account statement period will begin on the day you open your Account and will end on the last day of that calendar month (e.g. if you open your Account on January 20<sup>th</sup> your first statement period will be from January 20<sup>th</sup> through January 31<sup>st</sup>). Subsequent Account monthly statements are generated for a full calendar month and available online, electronically at, or shortly after, the end of the month (e.g. following on the example above, your next Account monthly statement period will be from February 1<sup>st</sup> through February 28<sup>th</sup>.)

Upon the availability online, electronically of your monthly statement (which may include a record of Account transactions debited and credited during the month), you agree to exercise reasonable care and promptness in examining the monthly statement. If your monthly statement shows any funds transfers or other Account transactions that you did not make or authorize, tell us immediately. You agree that you cannot make any claim against the Bank arising from, or relating to, your Account unless you promptly review your monthly statement and notify the Bank of any errors, forgeries, alterations or unauthorized Account transactions within fourteen (14) days from the date the Bank first made your monthly statement available online, electronically. Unless you notify us by telephone or in writing within fourteen (14) days from the date the Bank first made your monthly statement available online, electronically, all information on your monthly statement concerning Account transactions and Account balances shall be deemed correct and authorized, and you are prohibited from bringing a claim against us for any alleged error, forgery, alteration, or unauthorized Account transaction reflected on your monthly statement.

If your Account is inactive, or is in a dormant status, we may elect not to provide further Account monthly statements.

You agree to notify the Bank immediately if your monthly statement is not available online, electronically within seven (7) calendar days of your regular monthly statement date. The Bank will not be liable to you for any damages as a result of your failure to notify us that your monthly statement was not available online, electronically, or your failure to make suitable arrangements to view or receive your monthly statement online, electronically.

## **SECTION 8 FEES**

There is presently no minimum balance required to open your Account and no minimum balance required to avoid being charged a monthly maintenance or periodic fee. You agree to pay for all blank checks and similar forms, and all services provided in connection with your Account in accordance with our current schedule of charges, which may be found <https://www.americanexpress.com/en-us/banking/business/checking-account/agreement/rates-and-fees/>. The Bank may change its schedule of charges from time to time and impose Account fees in the future based on minimum and/or average daily balance requirements and will provide you notice of any such change.

Fees may be subject to state and local sales taxes, which vary by location, and will be assessed as appropriate. You agree to pay an amount equal to any other applicable taxes, including backup withholding tax (see the "Taxpayer Identification Numbers (TIN)/Backup Withholding" section below).

## **SECTION 9 INTEREST RATE INFORMATION**

Your Account is an interest-bearing business checking Account. There is presently no minimum balance required to obtain the interest rate or Annual Percentage Yield (APY) disclosed to you. However, no interest is earned on Account balances over \$500,000 (the "Cap"). At the Bank's discretion, interest may be earned in the future on balances in the Account based upon a tiered rate schedule where different rates may apply according to the balances maintained in the Account. We will provide you notice of any such change.

### **9.1 Variable Interest Rate**

The Account is a variable rate account. The initial interest rate and APY on your Account will be disclosed in the Rates & Fees Table <https://www.americanexpress.com/en-us/banking/business/checking-account/agreement/rates-and-fees/>. The Bank, at its discretion, may change the interest rate, the corresponding APY and the Cap on the Account at any time before or after the Account is opened, without prior notice.

### **9.2 Daily Balance Calculation**

The daily balance method is used to calculate interest. Under this method, a daily periodic rate of interest is applied to the ledger balance in the Account each day. The Bank will begin to accrue interest as of the Business Day

items are considered deposited in the Account. (See the "Accrual of Interest on Deposits" and "Cutoff Times" subsections below.)

### **9.3 Accrual of Interest on Deposits**

Interest begins to accrue on a deposit as of the Business Day it is considered to have been made. If the deposit is received or accepted by us on a Business Day no later than the applicable cutoff time specified for the type of deposit in the "Cutoff Times" subsection below, we will consider that Business Day to be the day of your deposit. If the deposit is received or accepted by us after the specified cutoff time or on a day that is not a Business Day, we generally will consider the deposit made on the next Business Day. If you request a withdrawal or transfer from your Account, the funds will be debited when we process the withdrawal or transfer and interest will not accrue or be credited to your Account for that processing day on the amount of the requested withdrawal or transfer, regardless of the actual date of the transfer. (See the "Cutoff Times" subsection below for more information on the processing times for transfer requests.)

### **9.4 Compounding and Crediting of Interest**

Interest will be compounded and credited to your Account monthly on the last day of your monthly statement period. If the Account is closed before monthly interest is credited, interest accrued during the calendar month in which the Account is closed will be credited or paid to you through the day prior to your Account closure.

## **SECTION 10 CLOSING OR FREEZING ACCOUNTS, INACTIVE ACCOUNTS**

### **10.1 Closing or Freezing Accounts**

We may, at any time and without prior notice, close your Account and terminate this Agreement as to that Account (except for those provisions of this Agreement that are intended to survive Account closing and termination) or freeze your Account (close your Account to further deposits, withdrawals, funds transfers and other Account activity), if we believe the Account was used in a manner that is inconsistent with the terms of this Agreement; for example, by:

- Using or attempting to use the Account for personal, family or household purposes;
- Providing incorrect or misleading data to us when opening the Account or at any other time;
- Maintaining the Account at a zero balance or below any applicable Account minimum balance that we may have established in our discretion from time to time;
- Exceeding any transaction dollar or frequency limits or any applicable Account maximum balance that we may have established in our discretion from time to time;
- Overdrawing the Account;
- Engaging or attempting to engage in activity we believe is illegal or fraudulent;
- Maintaining a physical business street address for the Account that is outside the United States, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa or Northern Mariana Islands (or, if applicable, outside another U.S. territory or U.S. possession where we offer the Account);
- Failing to fund the Account within sixty (60) days after we approve your application; or
- Linking or attempting to link your Account to an external account that you do not own.

We will also close your Account if we receive a withdrawal of consent to receive Account Communications electronically.

If we close your Account, we will return the Account balance to the owner of the Account according to our records, electronically or by mail.

## **10.2 Inactive Accounts/Abandoned Property**

If you have an Account with a balance and we have no records of any electronic or endorsed deposits, withdrawals or communications from you about your Account for one year or longer, we may consider the Account to be inactive and convert the Account to a non-interest-bearing Account, if allowable under state law. After a period of inactivity, we will try to locate you at the mailing or electronic address and telephone number shown in our records for your Account. After a specified period of time determined by the law of the state where your business is organized or located (as shown in our records), if we are still not able to locate you, we will be required to deliver the Account to that state as abandoned property. You will then need to apply to that state for return of your funds. If your Account is or has been inactive, we may, in our discretion, refuse to honor requests for withdrawals on the Account until after we have verified that you have authorized the withdrawal request.

## **SECTION 11 LINKING AND DELINKING ACCOUNTS, MAKING DEPOSITS AND WITHDRAWALS**

### **11.1 Linked External Accounts**

You may choose to link your Account with us to an external deposit account your business has with another financial institution's deposit-taking office in the United States, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa or Northern Mariana Islands. We refer to that other deposit account as a "Linked External Account". Your Linked External Account will be linked to all of your Account(s) with us. Any Linked External Account must be owned by you. Your request to establish a Linked External Account is subject to verification and approval by us (including our authorized service providers). In our discretion, we may limit the number of Linked External Accounts you may have at one time or de-link any Linked External Account. You may de-link any Linked External Account, at any time, by going to the "Manage External Accounts" page of your Account and clicking the "Delete" tab next to the Linked External Account you wish to delete.

### **11.2 Deposits – General**

Deposits may only be made in U.S. dollars, by (1) electronic funds transfer ("EFT"), including domestic (United States) automated clearing house ("ACH") transactions initiated online using our secure online banking portal to debit an external account of your business (see the "Additional Important Information About Electronic Funds Transfers (EFTs), including Automated Clearing House (ACH) transactions" section below and the ACH Terms and Conditions attached), by (2) wire transfers (see Wire Transfer Terms and Conditions attached) or by (3) checks payable to your business or to American Express National Bank. (See also the "Check Deposits" section below.) All deposits made by ACH (including deposits initiated by you or a third party pursuant to your authorization) are subject to our verification and to the Nacha Operating Rules and Guidelines and the rules of any international and/or regional clearing houses and other intermediaries we may use from time to time (collectively, the "ACH Rules"), and you agree to follow and be bound by the ACH Rules (as such ACH rules may be revised from time to time). Information about deposits to your Account is available through our secure online banking portal and on monthly Account statements. We are not required to give you any other type of notice concerning funds we receive for deposit to your Account. Before final settlement of any deposit, we act only as your agent, regardless of the form of endorsement or lack of endorsement on the item. We reserve the right to refuse, return, adjust or limit any deposit made to your Account and to establish (and change) maximum and minimum dollar limits for Account balances and some or all types of Account transactions in our discretion from time to time. Subject to the limitations in this Agreement, you may choose to make transfers into your Account at any time and by any means acceptable to us, with no limitation on the number of transfers to the Account, including third-party transfers. Subject to the

limitations in this Agreement, you may also choose to make deposits into your Account at any time and by any means acceptable to us, with no limitation on the number of deposits except if you are using our remote check deposit service as defined in the Remote Check Deposit Terms and Conditions attached hereto, you are limited to depositing no more than thirty (30) checks a day using our remote check deposit service. See the "Funds Availability Disclosure" section of this Agreement for information about when you can withdraw funds deposited to your Account.

If we receive a check for processing (whether for deposit to or payment from your Account), you agree that if there is a discrepancy between the dollar amount shown in words and the dollar amount shown in numbers on the check, the dollar amount in words controls.

If we receive an ACH or wire transfer of funds to be credited to an account, we may rely solely on the numeric account number information included as part of the ACH or wire transfer instructions we receive and process the funds transfer without determining whether that numeric account number is consistent with the other information we receive as part of the ACH or wire transfer instructions about the name or identity of the intended recipient.

We are responsible for exercising reasonable care when collecting a deposited item. We will not be responsible for the lack of care of any other bank involved in the collection or return of a deposited item, or for an item lost in collection or return.

### **11.3 Provisional Credits**

For purposes of this subsection, an "item" is a transaction intended to credit (add) funds to your Account, whether as the result of a deposit in the form of a check, draft, electronic item, ACH transaction, wire transfer or another funds transfer or payment instruction. All items are credited to your Account on a provisional basis that may be revoked if payment of the item is not received and/or settlement is not finalized. You agree that for any item not paid, returned unpaid, that we believe will be returned unpaid, or is returned pursuant to any applicable operating or clearinghouse rules, we may charge back the item against your Account without regard to whether such item was returned within any applicable deadlines. At our option and without notice that an item has been returned, we may resubmit any returned item for payment. You waive notice of nonpayment, dishonor, and protest regarding any items credited to or charged against your Account. You further agree that regardless of any final settlement, if an item that is deposited to your Account is unpaid, dishonored, or returned to us based upon a breach of warranty claim or any other reason, we may deduct the amount of the item from your Account, or place a hold on your Account for the amount of the item until liability for the item is determined. If we deduct the amount of the item from your Account, the party (business or consumer) that unsuccessfully attempted to transfer funds to your Account will not be considered to have paid the amount of the item and you will be responsible for contacting that party to make alternative payment arrangements.

### **11.4 Check Deposits**

In order for a check to be accepted for deposit it must be payable in U.S. Dollars; include on the front of the check (i) a magnetic ink character recognition (MICR) line containing a complete U.S. routing and account number, and check serial number; (ii) the preprinted name and address of the drawer (maker) of the check; (iii) a preprinted check serial number; and be drawn on an account held at a financial institution's deposit-taking office in the United States, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa or Northern Mariana Islands. These checks must be either payable to your business or to American Express National Bank. We accept most types of government, payroll, personal and other checks for deposit to your Account.

### **11.5 Non-Eligible Checks**

The following checks are not eligible deposit:

- Checks that are more than six (6) months old;
- Checks with any known or suspected alteration or which you know or suspect, or have reason to know or suspect, are unauthorized, fraudulent, or uncollectible;
- Unendorsed or improperly endorsed checks;
- International checks;
- U.S. Savings bonds;
- Money orders;
- MoneyGram;
- Counter or starter checks (without the bank routing number, account number and check serial number encoded at the bottom);
- Travelers checks;
- Checks that have already been deposited or submitted for deposit (whether to your Account with us or to another account of yours with another financial institution) by any means (including without limitation the U.S. mail or remote check deposit);
- Checks that have already been converted to an image or copy; or
- Remotely created checks (checks that are not created by the paying bank and that do not include the signature of the drawer (maker) on whose account the check is drawn).

We reserve the right, in our sole discretion, to accept for deposit certain non-eligible checks from time to time.

If you mail us a check deposit, mail the check(s) to us at American Express National Bank, PO BOX 30381, Salt Lake City, UT 84130-9997. Checks that are payable to your business should be endorsed on the back in the name of your business, and also include the words "For Deposit at AENB only" and your Account number underneath. If we allow you to remotely deposit such checks (by transferring images of the front and back of the original checks to us, as described in a separate Remote Check Deposit Terms and Conditions attached), the endorsement should include the words "For Mobile Deposit at AENB Only". All check endorsements must be in the designated area within 1 and 1/2 inches of the right side of the check as viewed from the back. (See "Endorsements" section below.)

We do not require that you use printed deposit slips when you mail us a check deposit. After you send any check deposit to us, examine your statement carefully and use our secure online banking portal to confirm that we received the check deposit.

We reserve the right to accept any check you send to us for deposit (including a remotely deposited check) for collection purposes only, and not for immediate deposit.

## **11.6 Endorsements**

You warrant that all endorsements for any item you present for deposit are genuine. We may supply any missing endorsements for any item we accept, whether for deposit or collection. We may reject for deposit any checks which have any notations or restrictions (e.g. a conditional endorsement) inconsistent or conflicting with the

deposit of such checks to your Account. (See also "Check Deposits" section above.) Checks that are not properly endorsed or that are not made payable to your business or to American Express National Bank will be returned.

To ensure that a check payable to your business is processed without delay, you must endorse it (sign it on the back) within 1 and 1/2 inches of the trailing edge of the check. The trailing edge is the left side of the check (when looking at it from the front). You may not send a check to us for deposit (including a remotely deposited check) if that check contains any information outside of this 1 and 1/2 inch area on the back of the check. You, the Account owner, agree to indemnify us and hold us harmless from and against, and reimburse us for, any loss we incur if your endorsement or any other information on the reverse side of your check causes our endorsement on the check to be illegible or otherwise delays the processing of the check. The preceding indemnification will survive termination of your Account.

### **11.7 Facsimile Signatures**

We are not required to honor facsimile signatures on your checks or other items. If we choose in our sole discretion to agree to your electronic or written request to honor checks or other items with facsimile signatures, you agree that you are solely responsible for the security and use of such facsimile signatures, and we may honor checks or other items containing such facsimile signatures regardless of whether use of such facsimile signatures on such checks or other items was authorized. You must notify us immediately if you suspect that your facsimile signatures are being used by unauthorized persons. (See also "Account Security" section above.)

### **11.8 Depositing Substitute Checks**

A substitute check is a copy of a check that is the legal equivalent of the original check. When you make a check deposit, if the deposited check is returned to us unpaid, you may receive a substitute check. If you deposit a substitute check and we suffer a loss, cost or expense as a result, you will be responsible to pay us that amount.

### **11.9 Direct Deposits**

You may arrange to have direct deposits that are payable to your business made by third parties to your Account. If, in connection with any governmental direct deposit program, we deposit any amount in your Account that should have been returned to the government for any reason, you authorize us to deduct the amount of our liability to the government from the Account or from any other Account you have with us, without prior notice to you, in addition to any other remedy we are entitled to under law to recover from you the amount of our liability to the government.

### **11.10 Withdrawals - General**

Withdrawals may only be made in U.S. dollars, by EFT, including by (1) domestic (United States) ACH transactions initiated online using our secure online banking portal (see the "Additional Important Information About Electronic Funds Transfers (EFTs), including Automated Clearing House (ACH) transactions" section below and the ACH Terms and Conditions attached), by (2) wire transfers (see the Wire Transfer Terms and Conditions attached) or by (3) checks you write against your Account. All ACH transactions you initiate (including without limitation online banking and bill payment transfers) are subject to ACH Rules, and you agree to follow and be bound by the ACH Rules (as such rules may be revised from time to time). Information about withdrawals from your Account is available through our secure online banking portal and through monthly Account statements. We are not required to give you any other type of notice concerning funds we withdraw from your Account. All domestic (United States) ACH funds transfers from your Account that you initiate online through us must be to accounts maintained by you or by third parties (including other businesses and consumers) with us or with another financial institution's deposit taking office in the United States, Puerto Rico, U.S. Virgin Islands, Guam, America Samoa or Northern Mariana Islands. We reserve the right to approve or decline a request to transfer funds from your Account with us to an account at another financial institution if we in our discretion reasonably believe the request poses an unacceptable fraud, collection or



other risk based in whole or in part on the information we may obtain from time to time from third parties (including without limitation our authorized service providers).

### **11.11 Withdrawal Rules**

We may refuse any withdrawal request that you attempt using checks, other forms or means or methods not approved or permitted by us, or that does not include all information we require, or that would exceed any applicable limits we may impose or cause your Account to be overdrawn. We reserve the right to establish (and change) maximum and minimum dollar limits for some or all types of withdrawal transactions. Subject to the terms and conditions of this Agreement, you may make transfers or withdrawals from the Account in any amount, at any time, and by any means acceptable to us, with no limitation on the number of transfers, including third-party transfers.

If you ask us to initiate a funds transfer from your Account and there is any discrepancy or inconsistency in any information you give us about the name or identity of the payee or financial institution intended to receive the funds transfer and the account number, routing number or similar numeric information you give us about the intended payee or financial institution, you agree that we may rely solely on the numeric information you give us, and process the funds transfer without determining whether the numeric information you give us is consistent with other information you give us about the name or identity of the intended payee or financial institution.

### **11.12 Payment of Items**

For purposes of this subsection, an “item” is a debit to your Account which includes a check, substitute check, purported substitute check, electronic item or transaction, draft, remotely created item, image replacement document, indemnified copy, preauthorized payment, automatic transfer, ACH transaction, online banking transfer or bill payment instruction, deposit adjustment, any other instruction or order for the payment, transfer, or withdrawal of funds, and any image or photocopy of any of the foregoing.

For each Business Day, for check transactions, we will post all check transaction credits to your Account first, in low to high dollar amount. Following these check transaction credits all check transaction debits will post to your Account in low to high dollar amount. For each Business Day, for ACH, Wire, Debit Card and Internal transfers, we will post all transactions in real time in chronological order. Items sent by third parties for temporary or provisional authorization prior to being submitted for final payment will post according to the date and time of the authorization request.

We may change the posting order or categories at any time. We have the discretion to process items even if your Account has an insufficient available balance to pay such items. Your “available” balance represents the amount of funds available for withdrawal or to pay items presented against your Account, less funds subject to holds for any reason (including holds arising from Account transactions that have been temporarily or provisionally authorized but not yet presented for final payment, and for requested Account transactions that are being processed) (your “Available Balance”). The Available Balance may not be the same as your “current” or “posted” balance. For example, your Available Balance may be reduced by a transaction in which a third-party payee has obtained authorization from us but that has not been presented for payment. (See also the “Funds Availability Disclosure” section below.) If, for any reason, a transaction is processed for more than the Available Balance in your Account, you are liable for that entire amount and agree to pay such negative balance to us immediately on demand.

In the check payment process, the Bank employs techniques to assist in the detection of unauthorized items that may be presented against your Account for payment. If a particular item appears to represent unusual activity on your Account, you authorize us, in our discretion, to reject the item and return it unpaid. If the returned item was, in fact, properly payable, you agree to hold us harmless from any claims, loss, or damages as a result of us not paying the item.

### **11.13 Stale Items**

We are not obligated to pay items drawn on any Account which are presented more than six (6) months after their date; however, if we do, in our discretion, pay any such items, we may charge your Account for such items.

### **11.14 Postdated Items**

You agree not to issue a postdated check and we may disregard such date on the item when it is presented for payment. We are authorized to pay any check prior to the date on the item even if you have given us notice that it is postdated. (See also the "Stop Payment Requests" subsection below.) If we agree to re-credit your Account after paying a postdated check you agree to transfer to us all of your rights against the payee or other holder of the check, and to assist in any legal action taken against that party.

### **11.15 Incomplete or Conditional Items**

You agree not to issue a check that is incomplete or conditional. For example, you should not issue a check with the notation "void after 30 days." We have the right, however, to pay or refuse to pay an item which is incomplete or where payment is conditional, and the condition has not been satisfied. For example, we may pay a check which says "void after 30 days" even though the check is presented more than thirty (30) days after its date. (See also the "Stop Payment Requests" subsection below.)

### **11.16 Insufficient Funds**

You may not make or request any withdrawal that would exceed the Available Balance in your Account. (See the "Payment of Items" subsection above and the "Funds Availability Disclosure" section below.) We will not be liable for dishonoring any withdrawal request that would exceed the Available Balance in your Account. If we receive a withdrawal request, automatic transfer, EFT, or other item drawn on your Account and there are insufficient available funds in the Account to pay the item, we will at our discretion either (a) return the item unpaid or (b) pay the item and create an overdraft in your Account (we may hold balances in your other Accounts that you may have with us and/or set-off against funds in your other Accounts until the overdraft is paid). If your Account has an insufficient Available Balance to pay all items presented for payment on a particular day, we may choose to honor withdrawals in the order they are received by us or in any other order we choose (as described above), unless the order of payment is specifically mandated by law. If we choose to pay an item or honor a withdrawal request by overdrawing your Account, you agree to immediately reimburse us upon our demand for the amount of the overdraft along with applicable collection costs and/or legal fees. We may also be required to issue you an IRS Form 1099-C for cancellation of debt if the unpaid overdrawn amount and/or any applicable fees/costs meets the required threshold.

### **11.17 Stop Payment Requests for Checks**

You may ask us to stop payment on a check you have written against your Account by notifying us in writing or by telephone (see the "Contacting Us" subsection below). Whatever method you choose, you must notify us in time for us to receive your request before we have received and started processing the check for payment against your Account. Whatever method you choose, your request must include your Account number, the **exact** dollar amount of the check you wish to stop, the **exact** name of the payee on the check, and the **exact** date and printed serial number on the check, so that the check can be located using our automated check processing techniques.

Applicable law may allow a person who has cashed, deposited, or otherwise negotiated your check to enforce payment of the check even if you ask us to stop payment on that check. Your indemnification agreement (see the "Indemnification" subsection below) applies to our losses and damages incurred or arising in connection with any stop payment request we attempt to process (whether the attempt is successful or unsuccessful).

### **11.18 Automated Check Processing**

You acknowledge that we process checks predominantly by automated means and we are under no duty to examine each item presented for payment. You agree that such automated check payment procedure is commercially reasonable. You and we, pursuant to applicable law, therefore, agree that we shall be deemed to have exercised ordinary care if we adhere to a general industry standard of manual or mechanical examination of a random sampling of items being processed for payment. These items may represent a sampling or selection of items drawn on all accounts, or items which meet certain minimum criteria established by us for manual or mechanical inspection (such as large dollar amounts). We shall be deemed to have acted in good faith and in accordance with reasonable commercial standards in paying any items forged or altered such that the unauthorized signature, endorsement, or alteration could not be detected by a reasonable person.

Under certain circumstances, checks you write against your Account may be submitted for payment to us by the payee as one-time electronic ACH debits, using information from such checks (including your Account number, our routing number, and other information). In such circumstances, we would not receive your checks for processing and would instead receive an ACH debit transaction initiated by a third party (and without your signature) for processing.

### **11.19 Prohibited Transactions**

The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA) prohibits any person engaged in the business of betting or wagering from knowingly accepting any payment in connection with the participation of another person in unlawful Internet gambling (a "restricted transaction"). You acknowledge and agree that you are prohibited from processing a restricted transaction through your Account or banking relationship with us. Your participation, or attempted participation, in any restricted transaction through your Account or banking relationship with us may result in the termination of your banking relationship with us and/or the closure of your Account.

### **11.20 Additional Limitations on Account Services**

When using services related to the Account, you may experience technical or other difficulties. We cannot assume responsibility for any technical or other difficulties or any resulting damages that you may incur. Periodic scheduled and unscheduled hardware and/or software upgrades or other maintenance to certain Account-related services (such as, for example, EFT or remote check deposit services) may be performed from time to time, resulting in interrupted service, delays or errors in the services. We shall have no liability for any such interruptions, delays or errors. Attempts to provide prior notice of scheduled maintenance will be made, but we cannot guarantee that such notice will be provided.

We may refuse to accept or process a requested Account transaction if we reasonably believe the transaction may be unauthorized, fraudulent, uncollectible, prohibited by law, or inconsistent with the terms and conditions applicable to the transaction or the Account, or if you do not give us any required confirmation of your identity or of the requested transaction (including without limitation any required transaction confirmation security code).

### **11.21 Additional Important Information About Electronic Funds Transfers (EFTs), including Automated Clearing House (ACH) Transactions**

For security and other reasons, we may in our discretion set limits on the dollar amounts of EFTs and on the number of EFTs that may be requested or initiated in a given period (for example, in a 24-hour period). We may set different limits for different types of EFTs (for example, EFTs requested through our online bill payment service or initiated by a third party pursuant to your authorization), and for EFTs to and from new customers' accounts that have been open for thirty (30) days or less after the account-opening deposit.

You must review all of your EFT entries carefully for accuracy before you finalize and submit such entries for processing. You may not be able to cancel or change an EFT you have authorized us to initiate from or to your

Account unless you give us at least three (3) full Business Days' notice. (Your ability to cancel or change an EFT you have authorized a third party to initiate from or to your Account is subject to your agreement with that third party, and to the stop payment provisions of the last paragraph in this subsection.)

If you have asked us to initiate one or more EFTs to or from your Account on one or more specified future dates (at least three (3) Business Days in the future), you may ask us to cancel one or all of such EFTs by notifying us by telephone or by mail (see the "Contacting Us" section below) or by following the bill pay cancellation terms and conditions of our online bill payment service provider if applicable. Whatever method you choose, you must call or write in time for us to receive your request at least three (3) Business Days before the payment you wish to stop is scheduled to be initiated. Your request must identify and include the **exact** dollar amount of the payment you wish to stop, **exact** information about the account or party scheduled to receive the payment or from which the payment is scheduled to be debited, and the **exact** date on which the payment is scheduled to be initiated.

If you have authorized a third party to initiate one or more EFTs to be debited from your Account on one or more specified future dates (at least three (3) Business Days in the future), you may stop one or all of such EFTs by notifying us. If you call, your stop payment request will last for fourteen (14) calendar days after your call. An electronic or written stop payment request (including an electronic or written request received within fourteen (14) calendar days after a telephone stop payment request) will last for six (6) months after we receive the electronic or written request. Whatever method you choose, your request must identify the third party, the date(s) on which the debit(s) is/are scheduled to be made, and the dollar amount(s) of the scheduled debit(s). You may also notify the third party and follow that third party's stop payment procedures.

## **11.22 Cutoff Times**

The cutoff times below describe the Business Day on which a transaction generally will be processed and, if the transaction is a deposit, when the deposit generally will be considered to have been made. All transactions are subject to approval and verification before they will be processed or considered received or made.

### ***11.22.1 Checks Deposited by Mail***

If we receive a check deposit you have mailed (or sent by other carrier) to our applicable check deposit address in Salt Lake City, Utah by 3:00 PM Eastern Time on a Business Day, we will consider that Business Day to be the day of your deposit. If we receive the check after 3:00 PM Eastern Time or on a day that is not a Business Day, we generally will consider the deposit made on the next Business Day.

### ***11.22.2 Remote Check Deposits***

If your remote check deposit is accepted by us for processing by 5:00 PM Eastern Time on a Business Day, we will consider that Business Day to be the day of your remote check deposit. If your remote check deposit is accepted by us for processing after 5:00 PM Eastern Time or on a day that is not a Business Day, we generally will consider the remote check deposit made on the next Business Day.

### ***11.22.3 Wire Transfer Deposits***

If we receive a completed inbound wire transfer of funds (in U.S. dollars) that includes proper identification of your Account by 6:00 PM Eastern Time on a Business Day, we will consider that Business Day to be the day of your deposit. If we receive a completed inbound wire transfer of funds (in U.S. dollars) that includes proper identification of your Account after 6:00 PM Eastern Time or on a day that is not a Business Day, we generally will consider the deposit made on the next Business Day. Please see the Wire Transfer Terms and Conditions Addendum to this Agreement for outgoing wire transfer of funds cut-off times.

### ***11.22.4 Online Transfer Requests (excluding Bill Payment Requests)***

Online requests to have us initiate a transfer of funds to or from your Account via ACH that we receive through our secure online banking portal will generally be processed on the first Business Day after we receive such a request (unless you request a later processing date), provided that we receive a fully completed online transfer request by 7:00 PM Eastern Time on a Business Day. Online transfer requests received by us through our secure online banking portal after 7:00 PM Eastern Time or on a day that is not a Business Day generally will be processed by us on the second Business Day after we receive the request (unless you request a later processing date).

#### **11.22.5 Online Bill Payment Requests**

Please see the Bill Pay Terms and Conditions Addendum attached to this Agreement.

## **SECTION 12 FUNDS AVAILABILITY DISCLOSURE**

### **12.1 Your Ability to Withdraw Funds**

Our policy is to delay the availability of funds from your check and other deposits as described below. During any delay, you may not withdraw the funds in cash, and we are not required to use the funds to pay checks you have written against your Account.

### **12.2 Determining the Availability of a Deposit**

The length of any delay is counted in Business Days from the day of your deposit. Every day is a Business Day except Saturdays, Sundays, and federal holidays. If you make a deposit on a Business Day we are open by 3:00 PM Eastern or any applicable later cutoff time described in the "Cutoff Times" subsection of this Agreement, we will generally consider that Business Day to be the day of your deposit. However, if you make a deposit after 3:00 PM Eastern or any applicable later cutoff time described in the "Cutoff Times" subsection of this Agreement or on a day we are not open, we will generally consider the deposit made on the next Business Day we are open.

The length of the delay varies depending on the type of deposit and is explained below.

### **12.3 Same-Day Availability**

Funds from the following deposits are generally available on the Business Day we receive the deposit:

- Electronic Direct Deposits initiated by a third party (not by or through us)
- EFT's from another account of yours at American Express National Bank

### **12.4 Next-Day Availability**

Funds from the following deposits are generally available on the first Business Day after the day of your deposit:

- U.S. Treasury checks payable to your business
- Checks drawn on American Express National Bank
- The first \$225 of the total of any check deposits not described above
- Wire transfers

## **12.5 Second Business Day Availability**

Any remaining funds from check deposits to your Account not otherwise described above will generally be available on the second Business Day after the day of your deposit.

## **12.6 Fifth Business Day Availability**

Funds from electronic deposits to your Account that you have initiated through us from an external account of your business will generally be available for withdrawal on the fifth Business Day after the related electronic funds transfer is processed by us.

## **12.7 Longer Delays May Apply to Certain Check Deposits**

Funds deposited by check may be delayed for a longer period under any of the following circumstances:

- We believe a check you deposit will not be paid
- Your Account has been overdrawn repeatedly in the last six (6) months
- There is an emergency, such as failure of computer or communications equipment
- You deposit checks totaling more than \$5,525 on any one day (see Important- Notice of Hold for Large Check Deposits, below)
- You redeposit a check that has been returned unpaid (see Important- Notice of Hold for Redeposited Checks, below)

Except for your deposit of checks totaling more than \$5,525 on any one day, if we delay the availability of funds deposited by check for any of the other reasons above, such funds will generally be available no later than the seventh Business Day after the day of your deposit. We will notify you if we delay your ability to withdraw funds for any of the first three (3) reasons listed above.

### ***12.7.1 Important - Notice of Hold for Large Check Deposits***

If more than \$5,525 of checks are deposited into your Account on any one Business Day:

- The first \$5,525 deposited on any one Business Day will be available to you according to our general policy. The amount in excess of \$5,525 will generally be available as follows:
  - On the second Business Day after the day of deposit for checks drawn on American Express National Bank.
  - On the sixth Business Day after the day of deposit for checks that are not drawn on American Express National Bank (including U.S. Treasury checks).
- If your check deposit, exceeding \$5,525 on any one Business Day, is a mix of checks drawn on American Express National Bank and/or other checks that generally receive next-day availability, and checks that would generally be available the second Business Day after the day of deposit, we may determine the amount of the deposit that exceeds \$5,525 by first adding any checks drawn on American Express National Bank, and then adding any U.S. Treasury checks payable to your business, before adding other types of check deposits.

### ***12.7.2 Important - Notice of Hold for Redeposited Checks***

- For a check that has been returned unpaid (for reasons other than a missing endorsement that has been added to the check before it is redeposited into your Account, or if the original check was returned unpaid because it was postdated but is no longer postdated when it is redeposited into your Account), the funds will generally be available on the second Business Day after the day of deposit for checks drawn on American Express National Bank and the seventh Business Day after the day of deposit for other checks.

## **SECTION 13 GENERAL**

### **13.1 Governing Law**

We are located in Utah. We hold your Account in Utah. We enter into this Agreement with you in Utah. Except as otherwise provided in the "Dispute Resolution" section at the end of this Agreement, this Agreement and your Account are subject to applicable federal laws and (to the extent not preempted by federal law) laws of the State of Utah, including without limitation the Uniform Commercial Code (UCC), without regard to internal principles of conflicts of law or choice of law. Except as otherwise provided in the "Dispute Resolution" section, if any provision of this Agreement is found to be unenforceable according to its terms, all remaining provisions will continue in full force and effect.

### **13.2 Reporting Agencies**

By submitting an application to open an Account, you authorize us to obtain information about you and your beneficial owners from time to time from credit and other reporting agencies, our subsidiaries and affiliates, and other third parties for the purpose of considering your Account application and any other legitimate purpose. We may also report the status of, or the closure of, your Account to credit and other reporting agencies, our subsidiaries and affiliates, and other third parties.

**Consumer Report Authorization:** You, in your individual capacity, authorize us to obtain information about you from time to time from credit and other reporting agencies, our subsidiaries and affiliates, and other third parties for the purposes of considering your Account application and any other legitimate purpose. We may also report the status or closure of your Account to credit and other consumer reporting agencies, our subsidiaries and affiliates, and other third parties.

### **13.3 Taxpayer Identification Numbers (TIN)/Backup Withholding**

We are required by federal law to obtain the Account owner's correct taxpayer identification number (TIN) in order to avoid potential backup withholding and/or to report interest income paid on your Account. The TIN must be provided on an IRS Form W-9 (or an acceptable substitute). If you are subject to backup withholding or if the Internal Revenue Service (IRS) notifies us that we do not have a correct TIN for you, we may be required to withhold and remit to the IRS a percentage of interest paid (backup withholding) on your Account. Amounts withheld are reported to the IRS as federal tax withheld and will be reflected on your IRS Form 1099-INT, Interest Income. A TIN may be in one of the following forms: (a) your Social Security number (SSN) if the Account is in your individual name or in the name of a sole proprietorship or single member LLC owned by an individual that is disregarded as a separate legal entity for U.S. federal tax purposes or (b) an employer identification number (EIN) if the Account is in the name of a partnership, corporation, limited liability company or other entity subject to U.S. federal tax filing requirements. (If the account is in the name of a sole proprietorship that has an EIN, you may give us either that EIN or your SSN.)

### **13.4 Your Privacy**

The privacy and security of your information is important to us. Please see our Privacy Statement, which is available at [www.americanexpress.com/privacy](http://www.americanexpress.com/privacy)

### **13.5 Contacting Us**

You may also call us at 1-855-497-1040 24 hours a day seven (7) days a week whenever this Agreement or applicable law requires or allows you to notify us by telephone.

You may mail correspondence, checks for deposit and notices required or allowed to be in writing under this Agreement or applicable law to the following address (or to such other address as we may provide to you from time to time for this purpose):

American Express National Bank  
P.O. Box 30381, Salt Lake City, UT 84130-9997

### **13.6 Email, Fax, SMS/Text and Telephone Instructions or Messages**

We are not required to act on any instruction or message from you provided by email, fax, SMS/text, or telephone voice mail, message service or answering machine. Whenever this Agreement or applicable law requires or allows you to give us electronic or written notice, we will not consider an email, fax or SMS/text to be such electronic or written notice.

### **13.7 FDIC Insurance**

Funds in Accounts with us are insured by the Federal Deposit Insurance Corporation (FDIC) up to the applicable limit. The amount of insurance coverage you have may depend on the type of business that owns the Account (e.g., natural person, corporation) and the total balances in all of your deposit accounts with us. For additional information, please visit the FDIC's website at [www.fdic.gov](http://www.fdic.gov).

### **13.8 Amendments**

We may change any term of this Agreement. Rules governing changes in interest rates are provided in the "Interest Rate Information" section of this Agreement. For other changes not specifically described in this Agreement, we will give you reasonable notice, electronically or by any other means permitted by law.

We may change the terms, conditions, or features of services related to the Account at any time by giving you notice, and we may condition your continuing use of an Account service on your re-acceptance of the changed terms, conditions or features of that service prior to allowing further use of that service after any amendments. You may reject such changes by discontinuing use of that service.

We may agree in writing to waive a term or condition of this Agreement. We may also revoke any such waiver upon notice to you.

You may only make the elections (and changes to such elections) concerning the types and features of certain services available from us in connection with your Account that are specifically described in this Agreement.

You may close your Account and terminate your use of any or all of our Account services at any time by giving us notice (see the "Contacting Us" section above). If you call, we may require you to confirm your request in writing or electronically.

We may also close your Account and terminate or suspend your use of and access to any or all of our Account services for any reason and at any time by giving you reasonable notice. Reasonable notice depends on the circumstances, and, in some cases, it might be reasonable for us to give notice after we have closed or frozen the Account. For instance, if we suspect fraudulent activity, we may immediately close or freeze your Account and then give you notice. We may refuse to pay any debits or other items presented or re-presented to us for payment after



we close or freeze your Account, but we are not obligated to refuse to pay those debits or other items, and we will not be liable if we pay any debit or other item presented after we close or freeze your Account.

### **13.9 No Waiver**

If we choose to pay an item or honor a withdrawal request that exceeds or overdraws your Available Balance or otherwise does not conform with the rules and limitations described in this Agreement once, we do so at our sole discretion, and are not required to do so again. We may choose to delay enforcing our rights or not to exercise our rights under this Agreement or applicable law. If we do this, we do not waive our rights to enforce or exercise our rights on any other occasion.

### **13.10 Limited Liability**

Unless we have acted in bad faith or with gross negligence or willful misconduct, we will not be liable to you for performing (or failure to perform) our services under or in connection with this Agreement. Without limiting the foregoing, we will not be liable for delays or mistakes that happen for reasons beyond our control, including without limitation acts of civil, military or banking authorities, national emergencies, epidemic, pandemic, insurrection, war, riots, acts of terrorism, failure of transportation, communication or water supply, or malfunction of or unavoidable difficulties with any equipment. If an arbitrator or a court finds that we are liable to you for what we did (or did not do, as the case may be) under or in connection with this Agreement, you may recover from us only your actual damages.

*NOTWITHSTANDING ANY OTHER PROVISION HEREIN, IN NO EVENT SHALL AMERICAN EXPRESS, ITS DIRECT OR INDIRECT SUBSIDIARIES, CONTROLLED AFFILIATES, AGENTS, EMPLOYEES OR REPRESENTATIVES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND, NOR FOR ANY LOST PROFITS OR REVENUES, IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT.*

This Limited Liability subsection will survive termination of your Account.

### **13.11 Indemnification**

You, the Account owner, agree to indemnify and hold us, our directors, officers, employees and agents (and the same of our subsidiaries and affiliates and our subsidiaries and affiliates themselves) harmless from and against losses and damages arising out of or any way connected with our performance under this Agreement, except for losses and damages arising out of our own gross negligence or willful misconduct. You, the Account owner, further agree to hold us, our directors, officers, employees, and agents (and the same of our subsidiaries and affiliates and our subsidiaries and affiliates themselves) harmless from losses and damages incurred or arising out of actions taken or omitted in good faith by us in reliance upon instructions from you. We are not responsible for any actions or omissions by any third party. If you give us instructions that we believe may expose us to potential liability, we may refuse to follow your instructions and we will not be liable to you if we refuse to follow your instructions. If we do choose to follow your instructions, we may ask you for certain protections such as a surety bond or an indemnity agreement in a form that is satisfactory to us. This Indemnification subsection will survive termination of your Account.

## **SECTION 14 DISPUTE RESOLUTION**

Most accountholder concerns can be resolved by calling us at 1-855-497-1040. In the event we are unable to resolve a concern to your satisfaction, this section explains how claims can be resolved through mediation, arbitration or litigation. It includes an arbitration provision.

Definitions: For this section, "you", "we" and "us" includes any corporate parents, subsidiaries, affiliates or related persons or entities. For this section, "Claim" means any current or future claim, dispute or controversy

relating to your Account, this Agreement, and any agreement or relationship you have or had with us, except for the validity, enforceability or scope of this Dispute Resolution section. "Claim" also includes but is not limited to (1) initial claims, counterclaims, cross-claims and third-party claims, (2) claims based upon contract, tort, fraud, statute, regulation, common law and equity, (3) claims by or against any third party using or providing any product, service or benefit in connection with any Account, and (4) claims that arise from or relate to (a) any Account subject to this Agreement, or any balances in any such Account, (b) advertisements, promotions or statements related to any such Account, and (c) your application for any Account. You may not sell, assign or transfer a Claim.

#### **14.1 Sending a Claim Notice**

Before beginning a lawsuit, mediation or arbitration, you and we agree to send a written notice ("Claim Notice") to each party against whom a Claim is asserted in order to provide an opportunity to resolve the Claim informally or through mediation. Go to [americanexpress.com/claim](http://americanexpress.com/claim) for a sample Claim Notice. The Claim Notice must describe the Claim and state the specific relief demanded. Notice to you may be provided by your Account statement or sent to the address we have on file for you. Notice to us must include your name, address and Account number and be sent to American Express ADR c/o CT Corporation System, 111 8th Ave., NY, NY 10011. If the Claim proceeds to arbitration, the amount of any relief demanded in a Claim Notice will not be disclosed to the arbitrator until after the arbitrator rules.

#### **14.2 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 (30) days after sending or receiving a Claim Notice, you or we may submit the Claim to JAMS (1-800-352-5267, [jamsadr.com](http://jamsadr.com)) or the American Arbitration Association (AAA) (1-800-778-7879, [adr.org](http://adr.org)) for mediation. We will pay the fees of the mediator. You and we agree to cooperate in selecting a mediator from a panel of neutrals and in scheduling the mediation proceedings.

All mediation-related communications are confidential, inadmissible in court and not subject to discovery.

All applicable statutes of limitation will be tolled from the date you or we sent the Claim Notice 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.

#### **14.3 Arbitration**

You or we may elect to resolve any Claim by individual arbitration. Claims are decided by a neutral arbitrator.

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 ANY CLAIM SUBJECT TO ARBITRATION. ARBITRATION PROCEDURES ARE GENERALLY SIMPLER THAN THE RULES THAT APPLY IN COURT, AND DISCOVERY IS MORE LIMITED. 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. AN ARBITRATION AWARD AND ANY JUDGMENT CONFIRMING IT WILL APPLY ONLY TO THE SPECIFIC CASE AND CANNOT BE USED IN ANY OTHER CASE EXCEPT TO ENFORCE THE AWARD. THE ARBITRATOR'S DECISIONS ARE AS ENFORCEABLE AS ANY COURT ORDER AND ARE SUBJECT TO VERY LIMITED REVIEW BY A COURT. EXCEPT AS SET FORTH BELOW, THE ARBITRATOR'S DECISION WILL BE FINAL AND BINDING. OTHER RIGHTS THAT YOU OR WE WOULD HAVE IN COURT ALSO MAY NOT BE AVAILABLE IN ARBITRATION.

Nothing contained in this Agreement will be deemed to be a waiver by the Bank of the protections afforded to the Bank under 12 U.S.C. Section 91 or any similar applicable state law. This arbitration provision does not limit the rights of the Bank or you to (1) exercise self-help remedies including setoff or (2) obtain provisional or ancillary remedies such as injunctive relief or attachment before, during or after the pendency of an arbitration proceeding. This exclusion does not constitute a waiver of the right or obligation of either party to submit any dispute to arbitration, including those arising out of (1) or (2) above.

#### **14.4 Initiating Arbitration**

Before beginning arbitration, you or we must first send a Claim Notice. Claims will be referred to either JAMS or AAA, as selected by the party electing arbitration. Claims will be resolved pursuant to this Arbitration provision and the selected organization's rules in effect when the Claim is filed, except where those rules conflict with this Agreement. If we choose the organization, you may select the other within thirty (30) days after receiving notice of our selection. 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"). We will not elect arbitration for any Claim you file in small claims court, so long as the Claim is individual 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 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.

#### **14.5 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 OR ON BASES INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC, OTHER ACCOUNTHOLDERS OR OTHER PERSONS SIMILARLY SITUATED.

Notwithstanding any other provision in this Agreement and without waiving the right to appeal such decision, if any portion of these Limitations on Arbitration is deemed invalid or unenforceable, then the entire Arbitration Provision (other than this sentence) will not apply.

#### **14.6 Arbitration Procedures**

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 on Arbitration, the arbitrator may otherwise award any relief available in court. You and we agree that the arbitration will be confidential. You and we agree that we will not disclose the content of the arbitration proceeding or its outcome to anyone, except for disclosures of this information by the Bank or you required in the ordinary course of business, by applicable law or regulation or to the extent necessary to exercise any judicial review rights set forth in this Agreement. You or we may notify any government authority of the Claim as permitted or required by law.

If your Claim is for \$10,000 or less, you may choose whether the arbitration will be conducted solely on the basis of documents, through a telephonic hearing, or by an in-person hearing. At any party's request, the arbitrator will provide a brief written explanation of the award. The arbitrator's award will be final and binding, subject to each party's right of appeal as stated in this section and/or to challenge or appeal an arbitration award pursuant to the FAA. To initiate an appeal, a party must notify the arbitration organization and all parties in writing within 35 days after the arbitrator's award is issued. The parties will select a three-arbitrator panel administered by the

selected arbitration organization to decide anew, by majority vote based on written submissions, any aspect of the decision objected to. The appeal will otherwise proceed pursuant to the arbitration organization's appellate rules. Judgment upon any award may be entered into in any court having jurisdiction. The arbitration hearing will take place in New York, New York, but you may select to move the arbitration hearings to the federal judicial district of your residence.

#### **14.7 Arbitration Fees and Costs**

You will be responsible for paying your share of any arbitration fees (including filing, arbitrator, administrative, hearing or other fees), but only up to the amount of the filing fees you would have incurred if you had brought a Claim in court. We will be responsible for any additional arbitration fees. At your written request, we will consider in good faith making a temporary advance of your share of any arbitration fees or paying for the reasonable fees of an expert appointed by the arbitrator for good cause.

#### **14.8 Continuation**

This Dispute Resolution section will survive termination of your Account(s), any legal proceeding to collect a debt, any bankruptcy and any sale of you or your assets (in the case of a sale, its terms will apply to the buyer). If any portion of this Dispute Resolution section, except as otherwise provided in the Limitations on Arbitration provision above, is deemed invalid or unenforceable, it will not invalidate the remaining portions of this Dispute Resolution section.

## **AMERICAN EXPRESS BUSINESS CHECKING**

### Remote Check Deposit Terms and Conditions Addendum

#### **Important - Please Read Carefully**

These Remote Check Deposit Terms and Conditions (the "RCD Terms and Conditions") are part of the Business Checking Account Agreement (the "Agreement") and apply to deposits you make to your Account using this Remote Check Deposit Service ("RCD Service"). The RCD Service will allow you to take pictures of certain checks that are payable to your business or to American Express National Bank and then transmit those pictures electronically to us for deposit to your Account pursuant to these RCD Terms and Conditions, instead of depositing such checks to your Account by mail. We will then attempt to process and collect these electronically transmitted pictures for payment. Unless the context specifically requires otherwise, terms used in these RCD Terms and Conditions without specific definition have the same meaning given to them in the Agreement. In the case of a conflict between these RCD Terms and Conditions and the Agreement, these RCD Terms and Conditions will control.

#### **SECTION 1 AMENDMENTS AND CHANGES TO THE SERVICE**

We may change any term of the RCD Terms and Conditions and/or temporarily or permanently discontinue the RCD Terms and Conditions or the RCD Service, or the qualifications and requirements of the service, or modify, add and remove features from the RCD Service at any time in our sole discretion without prior notice, unless applicable law requires prior notice. After we change a term of the RCD Terms and Conditions or a feature of the RCD Service, we may condition your use of the RCD Service on your re-acceptance of the changed RCD Terms and Conditions prior to allowing further use of the RCD Service after any amendments. You may reject changes by discontinuing use of the RCD Service.

#### **SECTION 2 CERTAIN DEFINITIONS; GENERAL SERVICE REQUIREMENTS**

The RCD Service is designed to enable you to deposit certain eligible checks (described more fully below) to your Account using a compatible mobile phone, tablet or other smart wireless electronic device (each referred to as a "Mobile Device" or a "Device"). A picture of the front and back of the original endorsed physical check (a "Picture"), taken using your Mobile Device, is transmitted to us through your Mobile Device's web browser or other Internet connection, together with required accompanying information. To use the RCD Service your Account must be in good standing.

Successful completion of a remote check deposit is dependent upon a good-quality original check and a clear Picture of the front and back of the check. You agree that you are responsible for accurately photographing the front and back of the check according to our instructions.

All Mobile Devices must meet our minimum service hardware and software specifications, described below. We may also limit the number of Mobile Devices that may be used in connection with your Account.

In order to use the RCD Service, you must obtain and maintain, at your expense, compatible hardware (e.g., a smartphone or tablet with suitable photographic capability) and software, and, have access to broadband Internet connectivity. The Mobile Device must have all service-required compatible software, obtained through authorized distribution channels. Any such third-party hardware and software (and any Mobile Device) is subject to the terms and conditions of the agreements you enter into directly with the third-party providers. We assume no responsibility for defects, failures, or incompatibility of the RCD Service with your Mobile Device, your broadband Internet connectivity or other hardware or software used in connection with the RCD Service, including any third-party software you may need to use the RCD Service. We have no obligation to make the RCD Service available on any particular Mobile Device. We may disable the RCD Service on any Mobile Device in our sole discretion. We might do this if we have concerns about the security of information transmitted through such Mobile Device.

### **SECTION 3      LIMITATIONS OF SERVICE**

We are not liable for any checks we do not receive or for any images that are not readable. We shall have no liability for any alterations to or loss of the original check after the check image has been transmitted to us by you.

### **SECTION 4      ELIGIBILITY**

To be able to make a remote check deposit into your Account, you must first agree to these RCD Terms and Conditions, and your Mobile Devices must meet our requirements set forth on the prior page. In addition, and at our discretion, we may establish customer eligibility requirements to use the service. We may change such eligibility requirements without prior notice unless applicable law requires prior notice.

#### **Remote Check Deposit Limits**

We may limit the total number, dollar amount, and frequency of remote check deposits to your Account (by, for example, limiting the total number and/or dollar amount of remote check deposits on any Business Day or during a specified time period), in our discretion from time to time and without prior notice (unless applicable law requires prior notice). If a remote check deposit exceeds current limits or is otherwise ineligible for processing as a remote check deposit, it will not be processed. If you desire to deposit a check that exceeds any applicable limit or is otherwise ineligible for processing as a remote check deposit, you can mail the check to us for deposit, subject to the "Check Deposits" section of the Agreement.

#### **4.1      Eligible Checks**

In order for a check to be accepted and processed using this RCD Service, it must be payable in U.S. Dollars; include on the front of the check (i) a magnetic ink character recognition (MICR) line containing a complete U.S. routing and account number, and check serial number; (ii) the preprinted name and address of the drawer (maker) of the check; (iii) a preprinted check serial number; and be drawn on an account held at a financial institution's deposit-taking office in the United States, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa or Northern Mariana Islands. These checks must be either payable to your business or to American Express National Bank, be signed and dated by the drawer (maker) and meet the additional requirements (such as the restrictive endorsement requirement for checks payable to your business) described in the Agreement. (Please also see "Non-Eligible Checks," below.)

#### **4.2      Non-Eligible Checks**

The following checks are not eligible for Remote Check Deposit:

- Checks that are more than six (6) months old;
- Checks with any known or suspected alteration or which you know or suspect, or have reason to know or suspect, are unauthorized, fraudulent, or uncollectible;
- Unendorsed or improperly endorsed checks;
- International checks;
- U.S. Savings bonds;
- Money orders;
- MoneyGram;

- Counter or starter checks (without the bank routing number, account number and check serial number encoded at the bottom);
- Travelers checks;
- Checks that have already been deposited or submitted for deposit (whether to your Account with us or to another account of yours with another financial institution) by any means (including without limitation the U.S. mail or remote check deposit);
- Checks that have already been converted to an image or copy; or
- Remotely created checks (checks that are not created by the paying bank and that do not include the signature of the drawer (maker) on whose account the check is drawn).

By submitting a Picture of a check to us, you warrant to us that you have no knowledge or suspicion and no reason to know or suspect that the check is a non-eligible check. We reserve the right, in our sole discretion, to accept for remote deposit certain ineligible checks from time to time.

## **SECTION 5 PICTURE TRANSMISSION REQUIREMENTS**

Any Picture you transmit to us must meet all prevailing industry and regulatory requirements for remote check deposits (as those requirements may change from time to time) and we must be able to read and convert (at a minimum) the bank routing number, account number and check serial number encoded at the bottom of the Picture using our optical scanning hardware and software.

When you transmit a Picture to us, you agree that the Picture is an “item” as defined by the UCC and is the legal equivalent of the original check for all purposes including our qualifying as a holder-in-due-course for it as described in the UCC. We can attempt to process, collect, present for payment, return or re-present your Pictures in any way we choose that is allowed by law, including as electronically presented checks or as ACH transactions, in our sole discretion.

If a Picture does not meet all of our remote check deposit processing requirements, we can choose to, without any liability to you: (i) refuse to accept the Picture; (ii) process the Picture as received; or (iii) process the deposit for payment in another format as allowed.

### **5.1 Confirmations**

All of your Pictures are subject to our further verification prior to being accepted for deposit and final payment after deposit. When you successfully transmit a Picture to us, we will confirm that we have received your Picture. Our confirmation does not mean that your transmission and deposit are complete.

### **5.2 Your Handling Of The Original Eligible Check**

After submitting a Picture of a check to us, you must keep the original check in a safe place until you see the credit for that remote check deposit reflected in our secure online banking portal or on your Account statement. During that period, we may ask you, and you agree, to provide us with the original check (if, for example, the paying bank deems the Picture insufficiently legible). At the completion of that period, you agree to dispose of the original check by securely destroying or shredding it.

## **SECTION 6 OUR RIGHT TO REJECT REMOTE CHECK DEPOSITS**

We reserve the right to reject any remote check deposit, at any time, without any liability to you. In addition, we may reject a remote check deposit even if it was initially accepted for processing. In the event we determine to

reject a remote check deposit, any amount that was provisionally added to your Account balance from that remote check deposit will be reversed. We reserve the right to accept a remote check deposit for deposit or on a collection basis. We will not be liable to you for rejecting a remote check deposit, even if it causes us to decline any transactions you have already made. You agree that if we reject a remote check deposit, you may need to contact the original drawer (maker) of the check and request a replacement check.

## **SECTION 7 SECURITY**

You are responsible for protecting the Mobile Device you use for remote check deposit against unauthorized use as well as any losses and damages from unauthorized access. (See the "Account Security" section of the Agreement for additional information.)

By using the RCD Service, you accept the risk that a Picture may be intercepted or misdirected during transmission. We bear no liability to you or others for any such intercepted or misdirected Picture or any other information disclosed through such interception or misdirection.

## **SECTION 8 OUR RIGHT TO CHARGE BACK**

When you make a remote check deposit, we act only on your behalf. We try to identify and prevent fraudulent transactions; however, we have no liability to you to determine if any check you deposit is forged, counterfeit, altered, improperly endorsed or otherwise improper.

We have the right to charge back against your Account any remote check deposit you made if the paying bank refuses to pay or honor the check (including any ACH transaction or one-time electronic fund transfer we may have used to process the remote check deposit) for any reason. If that happens, we will subtract the funds from your Account.

## **SECTION 9 COOPERATION WITH INVESTIGATIONS**

You agree to cooperate with us in the investigation of unusual transactions, poor quality transmissions of Pictures, and resolution of claims and disputes relating to or arising from remote check deposits, including by providing, promptly upon request and at your own cost and expense, any originals or copies of checks deposited through the service in your possession and your records relating to such checks and Picture transmissions. This paragraph survives cancellation of the RCD Service for your Account and termination of your Account.

## **SECTION 10 USER WARRANTIES & INDEMNIFICATION**

In addition to the "Indemnification" subsection in the Agreement, you, the Account owner, will indemnify, defend and hold us harmless for any loss or causes of action for your breach of any promises you make to us in these RCD Terms and Conditions or otherwise, as well as any warranty or indemnity we provide in connection with the processing, collection, presentment for payment, return or re-presentment of a Picture or check transmitted to us using the RCD Service.

In addition, you warrant to us that:

1. You will only submit Pictures that accurately represent all of the information on the front and back of the original eligible checks as of the time you submit such Pictures to us.
2. You will only submit Pictures of eligible checks, not of any non-eligible checks.
3. You will not deposit or attempt to deposit, cash, or negotiate any original check with us or any other financial institution, or give the original check to anyone else, after you submit a Picture of the check to us.



4. You will not use the RCD Service for any other purpose other than to capture Pictures of checks as described in this Agreement.
5. You will notify us of any suspected or unauthorized use of the RCD Service, including any unauthorized use by one of your employees.
6. You will not make or permit any alteration of the RCD Service or removal or modification of any tags, proprietary or copyright notices, labels or other identifying marks on the RCD Service or the user interface generated by the RCD Service.

The above warranties survive cancellation of the RCD Service for your Account and termination of your Account.

## **SECTION 11 OWNERSHIP & LICENSE**

You agree that we retain all ownership and proprietary rights in the service, associated content, technology, mobile application, and applicable website(s) and you acquire no rights, title or interest in the RCD Service or the intellectual property rights in or to the RCD Service. Your use of the RCD Service is subject to and conditioned upon your complete compliance with the RCD Terms and Conditions and your compliance with all applicable laws relating to the RCD Service. Without limiting the foregoing, you may not use the RCD Service (i) in any anti-competitive manner, (ii) for any purpose which would be contrary to our business interest, or (iii) to our actual or potential economic disadvantage in any aspect. You may use the RCD Service only for lawful business purposes in accordance with these RCD Terms and Conditions and the Agreement, and not for any personal, family or household purposes. You may not copy, reproduce, distribute or create derivative works from the content and agree not to reverse engineer or reverse compile any of the technology used to provide the RCD Service. You agree not to transmit any virus or other disabling feature that may have an adverse impact on the RCD Service, its associated content, technology, mobile application or website(s).

## **SECTION 12 DISCLAIMER OF WARRANTIES**

YOU, THE ACCOUNT OWNER, AGREE YOUR USE OF THE RCD SERVICE AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE USE OF THE RCD SERVICE, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WE MAKE NO WARRANTY THAT THE RCD SERVICE (I) WILL MEET YOUR REQUIREMENTS, (II) WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE, (III) THE RESULTS THAT MAY BE OBTAINED FROM THE RCD SERVICE WILL BE ACCURATE OR RELIABLE, AND (IV) ANY ERRORS IN THE RCD SERVICE OR TECHNOLOGY WILL BE CORRECTED.

## **AMERICAN EXPRESS BUSINESS CHECKING**

### Automated Clearing House (ACH) Terms and Conditions Addendum

#### **Important - Please Read Carefully**

These ACH Terms and Conditions (the "ACH Terms and Conditions") are part of the Business Checking Account Agreement (the "Agreement") and apply to ACH funds transfers you request or authorize to or from your Account with us, excluding ACH funds transfers you request or authorize through our online bill payment service (see the Bill Pay Terms and Conditions Addendum attached to this Agreement). Unless the context specifically requires otherwise, terms used in these ACH Terms and Conditions without specific definition have the same meaning given to them in the Agreement. In the case of a conflict between these ACH Terms and Conditions and the Agreement, these ACH Terms and Conditions will control.

#### **SECTION 1 ACH DEPOSITS TO YOUR ACCOUNT**

You may authorize third parties to initiate direct deposits to your Account using mechanisms acceptable to the financial institutions holding such third parties' deposit accounts. You may also use our secure online banking portal to request a funds transfer to your Account from an account owned and maintained by your business with another financial institution's deposit-taking office in the United States, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa or Northern Mariana Islands (referred to as an "External Account" of your business). We may not approve a funds transfer request from such an External Account unless we (including our authorized service providers) are able to verify your ownership of the External Account to our satisfaction. We may require such verification to reoccur for any External Account funds transfer request you make using our secure online banking portal.

If you maintain more than one Account with us, you may also use our secure online banking portal to request a funds transfer to your Account from another Account you maintain with us.

All funds transfers to your Account must be in U.S. Dollars and must meet all applicable legal requirements and ACH Rules requirements (in each case as amended from time to time). By way of example only, a third party that initiates a direct deposit to your Account may be allowed to initiate a reversing or return transaction under ACH Rules if the original direct deposit was initiated in error.

The Agreement includes additional provisions applicable to funds transfers to your Account. (See, by way of example only, the subsections captioned "Provisional Credits" and "Direct Deposits," and the subsection describing the general cutoff time for online transfer requests.) The Remote Check Deposit Terms and Conditions include provisions applicable to checks you deposit to your Account using our remote check deposit service, including our right to process such checks as one-time ACH transactions in our discretion.

#### **SECTION 2 ACH WITHDRAWALS FROM YOUR ACCOUNT**

You may use our secure online banking portal to request funds transfers from your Account to deposit accounts maintained by you or by third parties (including other businesses and consumers) with us or with another financial institution's deposit-taking office in the United States, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa or Northern Mariana Islands. In addition, you may authorize third parties to initiate funds transfers from your Account to such third parties' deposit accounts using mechanisms acceptable to the financial institutions holding such third parties' deposit accounts.

All funds transfers from your Account must be in U.S. Dollars and must meet all applicable legal requirements and ACH Rules requirements (in each case as amended from time to time). By way of example only, ACH Rules require you to obtain authorization from the owner of a deposit account before you may initiate an ACH to or from the owner's deposit account, and you may not initiate an ACH to or from the owner's deposit account if the owner's

authorization has been revoked or terminated (whether by the owner or by operation of law). You may be required to provide a copy of the owner's authorization upon request to us and to the financial institution holding the owner's deposit account. You agree to keep accurate records of authorizations you obtain from the owners of deposit accounts for at least two (2) years after the date of the last ACH you initiate or attempt to initiate to or from such owners' deposit accounts.

A credit to a deposit account for an ACH funds transfer from your Account requested using our secure online banking portal (as described above) is provisional until the financial institution holding that deposit account has received final settlement (payment) for the funds transfer. If the financial institution holding that deposit account does not receive final settlement for the funds transfer (whether because your Account does not have sufficient available funds, or for any other reason), the provisional credit to the deposit account may be reversed and the owner of that deposit account may be required to repay the amount of any provisional credit to the financial institution holding that deposit account, in which case you will not be considered to have paid the amount of the ACH funds transfer to that deposit account.

You agree to allow sufficient processing time for an ACH funds transfer to a deposit account from your Account to become final. We are not responsible if we receive a request for an ACH funds transfer after any applicable cutoff time or without sufficient time to cause the funds to be finally settled (paid) to the financial institution holding the intended payee's deposit account by the date your payment is required to be made to the intended payee (under applicable terms of your agreement with the intended payee). We are also not responsible for any errors in routing numbers, account numbers, amounts, dates, or other numeric information you give us concerning the payee or financial institution you intend to receive an ACH funds transfer from your Account. You understand and agree that if we process an ACH funds transfer you request through our online banking portal, using the numeric information you give us for the payee's deposit account and for the date and amount of the ACH funds transfer, we may not be able to successfully initiate a correcting or reversing ACH funds transfer if you subsequently discover that you gave us erroneous numeric information or inadvertently submitted to us for processing a duplicate of an ACH funds transfer previously requested through our online banking portal.

All funds transfers from your Account are also subject to the terms and conditions of the Agreement applicable to account withdrawals and withdrawal requests. (See, by way of example only, the subsection captioned "Additional Important Information About Electronic Funds Transfers (EFTs), including Automated Clearing House (ACH) transactions.")

### **SECTION 3      ACH RULES**

All ACH funds transfers to and from your Account are subject to the requirements of ACH Rules, including without limitation provisions in the ACH Rules providing us authorization to initiate entries on your behalf and allowing us to audit your compliance with the ACH Rules and these ACH Terms and Conditions. You agree that it is your sole responsibility to familiarize yourself with the ACH Rules (as amended from time to time).

You agree to give us complete and accurate information for any ACH funds transfer you request or authorize to or from your Account, as required by applicable law and ACH Rules. You also agree to make to us all representations and warranties that we are required to make, as the originating depository financial institution (ODFI), pursuant to ACH Rules and applicable law to the financial institution holding the deposit account to or from which you request or authorize an ACH funds transfer involving your Account.

In connection with your election to make ACH payments to or from your Account through our secure online banking portal, you provide the following ACH authorization and agreement for all ACH transactions made to or from your Account ("ACH Authorization and Agreement") and certify and agree as follows: (i) you are the owner of the External Account whose number(s) you have supplied and designated as a funding source for your Account and (ii) you authorize us to initiate credit or debit entries between your External Account and your Account from time to time until your Account is closed and no further credits or debits are authorized or permitted under this Agreement.

You agree that the losses and damages covered by the “Indemnification” provision in the Agreement include without limitation fees, costs, and other expenses (including without limitation fines) we may be required to pay pursuant to ACH Rules and applicable law in connection with ACH funds transfers you request or authorize that do not comply fully with applicable law and ACH Rules.

#### **SECTION 4      GENERAL**

You agree that we may use commercially reasonable methods of our choosing to process your requested funds transfers. We may process any requested funds transfer to or from your Account using any international, regional or other clearing house or intermediary we choose in our discretion, and you agree we may disregard any instruction or request that accompanies a funds transfer request we receive from you concerning use of a specific clearing house or other intermediary. We do not agree under any circumstance to process funds transfers using the most expeditious available means or on a same-day or similar expedited basis.

## AMERICAN EXPRESS BUSINESS CHECKING

### Bill Pay Service Terms and Conditions Addendum

#### **Important - Please Read Carefully**

These Bill Pay Service Terms and Conditions (the “Bill Pay Terms and Conditions”) are part of the Business Checking Account Agreement (the “Agreement”) and apply to payments you make using this Bill Pay Service (the “Bill Pay Service”). The Bill Pay Service will allow you to make payments from your business checking Account to certain approved payees (and payees you may add) located within the United States pursuant to these Bill Pay Service Terms and Conditions. Unless the context specifically requires otherwise, terms used in these Bill Pay Terms and Conditions without specific definition have the same meaning given to them in the Agreement. In the case of a conflict between these Bill Pay Terms and Conditions and the Agreement these Bill Pay Terms and Conditions will control.

#### **SECTION 1 AGREEMENT; GENERAL INFORMATION**

We provide the Bill Pay Service with the assistance of certain authorized service providers. Access to the Bill Pay Service is through our secure online banking portal. Payments made by you to eligible payees (see Section 2 Eligible Payees; Check and ACH Payments and Section 3 Ineligible Payees; Prohibited Payments below) through the Bill Pay Service may take the form of ACH payments or checks.

You agree to promptly cooperate with us and our authorized service providers and their agents and representatives, at your sole expense, to help resolve questions or issues that arise in connection with the processing (including without limitation the funding) of a bill payment you request using the Bill Pay Service. You agree that we and our authorized service providers and their agents and representatives may contact you directly, using any contact information you have provided to us, or to our authorized service provider (including without limitation telephone numbers, email and U.S. mail addresses), if any such questions or issues arise. We and our authorized service providers and their agents and representatives also may contact any payee described in any bill payment transaction you request using the Bill Pay Service, using any contact information you have provided or any contact information otherwise obtained by the Bill Pay Service, if any such questions or issues arise, and you agree that we, and our authorized service providers may share information you have provided using the Bill Pay Service with payees to facilitate processing requested bill payments.

In our discretion, we may establish customer eligibility requirements to use the Bill Pay Service. We may change such eligibility requirements without prior notice unless applicable law requires prior notice. For security and other reasons, we also may in our discretion set limits on the dollar amounts of bill payments, and on the number of bill payments that may be requested or initiated in a given period (for example, in a 24-hour period) to any or all payees, and on the total number of payees associated with your Account. There is a single individual daily payment limit of \$15,000. There is an aggregate daily payment limit of \$30,000.

We also may change any provision of these Bill Pay Terms and Conditions and/or temporarily or permanently discontinue your use of or the availability of the Bill Pay Service, change the requirements of the Bill Pay Service, or modify, add and remove features from the Bill Pay Service at any time in our sole discretion without prior notice, unless applicable law requires prior notice. If you do not agree to any provision (including without limitation any changed provision) of these Bill Pay Terms and Conditions, you should not use the Bill Pay Service.

We may condition your use of the Bill Pay Service on your online acceptance (and re-acceptance) of these Bill Pay Terms and Conditions (including any applicable changes to these Bill Pay Terms and Conditions). By accepting (or re-accepting) electronically and/or by using the Bill Pay Service, you agree to these Bill Pay Terms and Conditions (including any applicable changes to these Bill Pay Terms and Conditions).

## SECTION 2 ELIGIBLE PAYEES; CHECK AND ACH PAYMENTS

Payees must be physically located in the United States. Payees that are already in Bill Pay Service database are eligible to receive ACH and/or check payments. Payees not in the Bill Pay Service database are only eligible to receive check payments. If you attempt to use the Bill Pay Service to pay a payee that is not, at that time, in the Bill Pay Service database you will receive a message online that the payee is only eligible to receive a check payment, and you will be asked to authorize such a check payment or cancel the requested transaction.

Check payments will be mailed using first class mail, postage prepaid, to your designated payee using the address and other information you provide through the Bill Pay Service (or, if applicable, information provided by the payee to the Bill Pay Service). Checks may include an expiration date of not less than 180 days from the check issuance date and will include or be accompanied by information identifying you or your account with the payee (based on information you provide through the Bill Pay Service). You must schedule the requested bill payment date (the requested check mailing date) for a Bill Pay Service transaction sufficiently in advance of the bill's payment due date to allow sufficient time for processing, mailing and delivery of the check to your payee (taking into account, such things as weekends and holidays).

You also agree to allow sufficient processing time for an ACH payment to an eligible payee in the Bill Pay Service database. You agree that we or our authorized provider may send ACH payments to eligible payees in the Bill Pay Service database using then-current information as provided by the payees. You also agree that if for any reason we or our authorized provider determines that we are unable to send an ACH payment successfully to an eligible payee in the Bill Pay Service database, we or our authorized provider may choose instead to send the payment to the payee in the form of a check. You agree that the Bill Pay Service will not necessarily process requested bill payments using the most expeditious available means or on a same-day or similar expedited basis.

If your payment request is submitted before 4:00 PM ET (or scheduled on a Business Day) the payment request will be submitted or scheduled for that Business Day. If your payment request is submitted after 4:00 PM ET (or scheduled on a non-Business Day), the payment request will be submitted or scheduled the next Business Day.

If for any reason the Bill Pay Service processes a payment you request using the Bill Pay Service without receiving full and final payment from your Account, you agree to immediately pay the difference to us or our authorized service provider on demand.

We or our authorized service provider may update payee address and similar information in your Bill Pay Service user profile at any time to reflect information provided by the payee to the Bill Pay Service.

**In addition to the "Limited Liability" subsection in the Agreement, you agree that the Bill Pay Service is not responsible for any charges imposed, or any other action, by a payee resulting from a late payment, including without limitation any applicable finance charges and/or late fees, unless bill payment processing delays are caused by the gross negligence or willful misconduct of us or one of our authorized service providers.**

## SECTION 3 INELIGIBLE PAYEES; PROHIBITED PAYMENTS

We, directly or through our authorized providers, reserve the right to disapprove a payee (including without limitation a payee previously in the Bill Pay Service database) at any time.

Payees not physically located in the United States are ineligible for the Bill Pay Service.

- In addition, the following payees and payments are prohibited:
- tax or other payments to any governmental or quasi-governmental authority

- payments made in connection with any fines, penalties and other amounts owed to any governmental or quasi-governmental authority
- payments made pursuant to court or other governmental or quasi-governmental order (including without limitation court-ordered child support or other payments)
- payments made in connection with any unlawful internet gambling
- payments prohibited by law
- payments made for personal, family, or household purposes
- payments made on behalf of third parties

You agree that you will not use the Bill Pay Service to request any prohibited payments. We may refuse to process any payment that appears to be prohibited or fraudulent.

#### **SECTION 4 CHANGING, STOPPING OR CANCELING A REQUESTED BILL PAYMENT**

You must review all of your requested bill payment entries carefully for accuracy before you finalize and submit such entries for processing. We or our authorized service providers may rely on all information you provide in connection with a requested bill payment, without confirming or verifying the accuracy of any information you provide.

You may not be able to cancel or change a requested bill payment you have authorized using the Bill Pay Service after we, or our authorized service provider have started processing the requested payment.

You may log into our secure online banking portal to see whether funds have been moved from your Account to fund a requested bill payment. The Bill Pay Service will also indicate whether a requested bill payment is being or has been processed, and whether it may be changed or canceled.

You agree to regularly log in to our secure online banking portal and the Bill Pay Service to review the status of bill payments recently requested using the Bill Pay Service, and funds transfers that have been or are in the process of being posted to your Account. You agree to notify us immediately about any possible error, unauthorized bill payment transaction, and similar matters. (See the “Contacting Us” subsection in the Agreement.)

After we, or our authorized service provider have started the process of preparing a check to pay a payee not in the Bill Pay Service database (as described in above), it may not be possible for us or our authorized provider to stop the processing or payment of that check. Applicable law may allow a person who has cashed, deposited, or otherwise negotiated a check to enforce payment of that check even if we or our authorized provider agree to place a stop payment request on that check after the check has been mailed to the payee.

We and our authorized provider may choose to unilaterally place a stop payment request on a check mailed to a payee if that check is not negotiated within 90 days from the check issuance date, subject to the preceding paragraph.

#### **SECTION 5 INDEMNIFICATION**

In addition to the “Indemnification” subsection in the Agreement, you agree to indemnify, defend and hold us and our authorized service providers harmless for any loss or causes of action arising from or relating to (i) our or their exercise of rights under these Bill Pay Terms and Conditions or otherwise (including without limitation our and their right to refuse to process any payment that appears to be prohibited or fraudulent); (ii) our or their reliance on instructions or information you provide in connection with your use of the Bill Pay Service; and (iii) your breach of

any promise you make in these Bill Pay Terms and Conditions or otherwise (including without limitation your agreement to not use the Bill Pay Service for ineligible or prohibited payees or payments).

## **SECTION 6      DISCLAIMER OF WARRANTIES**

YOU, THE ACCOUNT OWNER, AGREE YOUR USE OF THE BILL PAY SERVICE AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE, OUR AUTHORIZED SERVICE PROVIDERS DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE USE OF THE BILL PAY SERVICE, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WE MAKE NO WARRANTY THAT THE BILL PAY SERVICE (I) WILL MEET YOUR REQUIREMENTS, AND (II) WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE.

## **SECTION 7      ADDITIONAL AGREEMENTS**

If you or we temporarily or permanently discontinue, suspend, or terminate your use of the Bill Pay Service, we and our authorized service providers may continue to process any then-pending requested bill payments or terminate such processing, in our and their discretion. We and our authorized service providers may also remove payee information from your Bill Pay Service user profile at any time.

Nothing in these Bill Pay Terms and Conditions alters your liability or obligations that exist between you and your payees.



## **American Express Business Checking**

### **Business Debit Card Terms and Conditions Addendum**

#### **Important - Please Read Carefully**

These Business Debit Card Terms and Conditions (the "Business Debit Card Terms and Conditions") are part of the Business Checking Account Agreement (the "Agreement") and apply to any and all transactions you make using a Business Debit Card ("Card").

Unless the context specifically requires otherwise, terms used in these Business Debit Card Terms and Conditions without specific definition have the same meaning given to them in the Agreement. In the case of a conflict between Business Debit Card Terms and Conditions and the Agreement, these Business Debit Card Terms and Conditions will control.

#### **SECTION 1 GENERAL**

The Agreement includes additional provisions applicable to your use of the Card. For example, the Card and Card-identifying information (including, without limitation, the Card number and the related security code on the Card) are Account Access Information subject to the "Account Security" section of the Agreement. Card transactions are a type of electronic fund transfer (EFT), subject to (for example) the subsections in the Agreement captioned "Additional Limitations on Account Services" and "Additional Important Information About Electronic Funds Transfers (EFTs), including Automated Clearing House (ACH) Transactions."

#### **SECTION 2 CARD ISSUANCE AND VALIDATION**

When we issue a Card to you, it will not be activated, and will be accompanied by activation instructions. Activation will require us to confirm your identity and will also require you to choose a personal identification number ("PIN") for the Card. If we are not able to confirm your identity or you do not enter a PIN, the Card will not be activated.

We may unilaterally cancel a Card before or after it has been activated, so that it may not be used. (For example, we may unilaterally cancel a Card for security reasons if someone tries to use the Card with an incorrect PIN or any other incorrect Card-identifying information.) After we issue and activate a Card, we may unilaterally terminate your use of the Card and discontinue Card services for your Account. (For example, we may do this if we believe the Card, Card number or any other Card-identifying information is not being maintained in a secure manner as required by the "Account Security" section of the Agreement.) The Card belongs to us, and you agree to promptly surrender or destroy the Card upon our request. We will issue one Card per Account.

#### **SECTION 3 AUTHORIZED USE OF THE CARD AND PIN**

We do not keep any record of your PIN. You agree not to write the PIN on the Card or on anything near or accompanying the Card or otherwise easily accessible to an unauthorized person. If you give the Card and PIN to any third party (including, for example, an employee or authorized agent of your business) or otherwise allow any third party to use the Card (including the Card number and other Card-identifying information), we will consider all use of the Card by that third party to be authorized by you.

You may use our secure online banking portal to change the PIN associated with a Card or Freeze/Unfreeze your Card at any time as more fully described below.

## SECTION 4 SERVICES AVAILABLE WITH THE CARD

(a) **Purchases** You may pay participating merchants for purchases with a Card (including in-person at a participating merchant's Card terminal or online), subject to funds availability. Participating merchants are merchants that accept the Card as payment for purchases. The purchases described in this paragraph may be subject to transaction limits or other requirements set by participating merchants.

(b) **Terminal Cash Withdrawals** You may withdraw cash from your Account (subject to funds availability) at automated teller machine terminals (ATMs) by using the Card and PIN.

(c) **Freeze/Unfreeze Your Card** You may freeze your Card using our secure online banking portal at any time to block new Card purchases and ATM transactions while still allowing recurring Card transactions, credits and refunds to continue.

## SECTION 5 LIMITATIONS ON CARD TRANSACTIONS

(a) **Purchases** We limit use of the Card for purchases at participating merchants to a maximum of \$5,000 (USD) per calendar day (subject to funds availability). Some participating merchants may have more restrictive limits. We may refuse to process Card transactions that appear to be "restricted transactions" (see the "Prohibited Transactions" subsection of the Agreement) or otherwise prohibited by law or the terms of the Agreement. Your Card cannot be used at any casino or for any online lawful internet gambling.

(b) **Terminal Cash Withdrawals** We limit ATM cash withdrawals to a maximum of \$1,000 (USD) per calendar day (subject to funds availability). Some owners and operators of ATMs may have more restrictive limits.

(c) **All Card Transactions** For security reasons, there may be other limits on the number and dollar amount of Card transactions you can make in addition to the limits that are described in these Business Debit Card Terms and Conditions.

We are not responsible for the refusal of any merchant, ATM, or financial institution to honor the Card. We are not responsible if an ATM, merchant terminal, or website has technical or other difficulties that may interrupt the availability of Card-related services or is out of operation for maintenance or other reasons.

As a security precaution, some ATMs and merchant terminals may be programmed to capture the Card and not return the Card if someone tries to use the Card in-person with an incorrect PIN or for any other security related issue. Should this happen please call the number on the back of your Card.

## SECTION 6 ATM FEES

The owners/operators of ATMs that include the "MoneyPass®" logo will not impose Card transaction fees in connection with ATM cash withdrawals from your Account. The owners/operators of ATMs that do not include the "MoneyPass®" logo may impose fees on Card transactions at such ATMs (including cash withdrawals). The dollar amount of any such fees will be disclosed at such ATMs (for example, on the ATM or the ATM screen and/or on a paper notice issued from the ATM) before you finish authorizing a Card transaction at such ATMs (unless there is equipment malfunction). If you authorize an ATM transaction that is subject to an ATM fee, the fee will be deducted from your Account on the date of the ATM transaction and will show on your monthly statement as an addition to the amount of the withdrawal. (If the Account has an insufficient Available Balance, the ATM transaction may be declined.)

## SECTION 7 FOREIGN TRANSACTIONS AND RELATED FEES

All Account cash withdrawals and purchases made with the Card at a participating location outside the United States (including at a participating ATM or merchant located outside the United States or with a participating

merchant that accepts online payments for purchases at a location outside the United States) will be subject to a **2.70%** foreign transaction fee (calculated using the U.S. dollar value of the Card transaction, regardless of whether the Card transaction was in foreign currency or in U.S. dollars). The fee will be deducted from your Account on the date of the applicable Card transaction and will show on your monthly statement as an addition to the amount of the ATM withdrawal or purchase.

If you use the Card to make a cash withdrawal or purchase outside the United States in a foreign currency, AE Exposure Management Ltd. ("AEEML") will convert the amount of the foreign currency transaction into U.S. dollars on the date we or our agents process the transaction, and your Account will be debited for the transaction in U.S. dollars based upon this conversion. Unless a particular rate is required by law, AEEML will choose a conversion rate that is acceptable to us for that date. The rate AEEML uses is no more than the highest official rate published by a government agency or the highest interbank rate AEEML identifies from customary banking sources on the conversion date or the prior business day. This rate may differ from rates that are in effect on the date of your transaction. For foreign currency charges that are converted by establishments (such as airlines), we will use the rates they use.

## **SECTION 8 STOPPING PAYMENTS**

Except for Card transactions you have authorized to occur in advance (by authorizing a participating merchant to debit one or more future purchases to your Account using the Card number and other Card-identifying information), once you submit a Card transaction for processing, you cannot stop payment on or processing of that transaction. For Card transactions you have authorized to occur in advance, you may contact us at least three (3) Business Days before the next scheduled transaction to stop payment of that transaction (and, if applicable, all future scheduled transactions you have authorized that merchant to initiate automatically using the Card number and other Card-identifying information). You may contact us by calling customer service at 1-855-497-1040. Please include the name of the participating merchant scheduled to receive the payment(s) you wish to stop, the dollar amount of the future Card transaction(s) you wish to stop, and the date(s) on which the Card transaction(s) is/are scheduled to be initiated. (The "Additional Important Information About Electronic Funds Transfers (EFTs), including Automated Clearing House (ACH) Transactions" subsection of the Agreement has additional information about stop payment requests for EFTs you have authorized a third party to initiate from your Account.)

## **SECTION 9 RECEIPTS**

You may be given the option of receiving (or you may be automatically given) a receipt for Card transactions at participating merchants and ATMs. You should compare the information on these Card transaction receipts to related Card transaction information that appears on your Account statements.

## **SECTION 10 REPORTING UNAUTHORIZED USE OF THE CARD**

You should immediately report and cancel a Card that you believe has been lost, stolen, or used by an unauthorized person (or used by a person whose authorization you wish to revoke), by calling customer service AT ONCE at 1-855-497-1040. The sooner you notify us, the sooner we will be able to cancel any further use of the Card (including unauthorized use of the Card number or other Card-identifying information).

## **SECTION 11 LIABILITY FOR UNAUTHORIZED CARD TRANSACTIONS**

If your monthly account statement shows transfers that you did not make or authorize, including those made by your card, PIN, or other means, tell us AT ONCE by calling customer service at 1-855-497-1040. If you do not notify us within 60 days after your monthly statement was made available to you, you will be liable for any additional unauthorized transactions that occurred after the 60-day period and before you provided notice to us (if we can prove we could have stopped those transactions had you promptly notified us). You will have no liability for any Card

transactions that you did not make or authorize, so long as those transactions occurred before the end of the 60-day period described above.

You agree to cooperate with our investigation of the loss, theft, or unauthorized use of the Card (including unauthorized use of the Card number or any other Card-identifying information), including providing us and law enforcement authorities with information we or they may require (including, for example, an affidavit), as described in the "Security Procedures" subsection of the Agreement.

The 14-day notification period described in the "Statements" section of the Agreement is replaced with the 60-day notification period described in this "Liability for Unauthorized Card Transactions" section solely for Card transactions (and no other Account transactions). All other provisions in the "Statements" section of the Agreement apply to Card transactions involving your Account.

## **SECTION 12 CHANGES TO THESE DEBIT CARD TERMS AND CONDITIONS**

We may change any provision of these Business Debit Card Terms and Conditions and/or temporarily or permanently discontinue your use of the Card or the availability of Card-related services, or modify, add and remove features from the Card-related services at any time in our sole discretion without prior notice, unless applicable law requires prior notice. If you do not agree to any provision (including without limitation any changed provision) of these Business Debit Card Terms and Conditions, you should stop using the Card, destroy the Card, and use our secure online banking portal to freeze further use of the Card.

## AMERICAN EXPRESS BUSINESS CHECKING

### Wire Transfer Terms and Conditions

#### **Important - Please Read Carefully**

These Wire Transfer Terms and Conditions (the "Wire Transfer Terms and Conditions") are part of the Business Checking Account Agreement (the "Agreement") and apply to wire transfers you request or authorize from your Account with us. Unless the context specifically requires otherwise, terms used in these Wire Transfer Terms and Conditions without specific definition have the same meaning given to them in the Agreement. In the case of conflict between these Wire Transfer Terms and Conditions and the Agreement, these Wire Transfer Terms and Conditions will control.

The Agreement includes additional provisions applicable to wire transfers to and from your Account. (See, by way of example only, the subsections captioned "Deposits-General," "Provisional Credits," "Withdrawals-General," "Withdrawal Rules," "Payment of Items," and "Additional Limitations on Account Services," and the subsection describing the general cutoff times for wire transfers to your Account.)

### **SECTION 1 WIRE TRANSFERS FROM YOUR ACCOUNT**

You may use our secure online banking portal to request wire transfers from your Account to deposit accounts maintained by you or by third parties (including other businesses and consumers) with us or with another financial institution's deposit-taking office in the United States, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa or Northern Mariana Islands.

All wire transfers from your Account must be in U.S. Dollars and must meet all applicable legal requirements and requirements of the Federal Reserve System's Fedwire Funds Service (in each case as amended from time to time). We expect to use the Fedwire Funds Service to process wire transfers you request from your Account. You agree that our use of the Fedwire Funds Service is reasonable, and that all wire transfers you request from your Account are subject to and must meet the requirements of the Fedwire Funds Service (including without limitation applicable Federal Reserve System regulations and operating circulars, in each case as amended from time to time), unless and until we give you notice of our intent to use a different wire transfer service or service provider.

A credit to a wire transfer beneficiary's deposit account for a wire transfer from your Account requested using our secure online banking portal (as described more fully below) is provisional until the financial institution holding that deposit account has received final settlement (payment) for the wire transfer and numeric information about the beneficiary's account number and dollar amount to be credited to that account number. If the financial institution holding that deposit account does not receive final settlement for the wire transfer (whether because your Account does not have sufficient available funds, or for any other reason), the provisional credit to the beneficiary's deposit account may be reversed and the wire transfer beneficiary may be required to repay the amount of any provisional credit to the financial institution holding the beneficiary's deposit account, in which case you will not be considered to have paid the amount of the wire transfer to that deposit account.

We are not responsible for any errors in routing numbers, account numbers, dollar amounts, dates, or other numeric information included in your wire transfer request submitted to us about the beneficiary or financial institution you intend to receive a wire transfer from your Account. You must carefully review the details of each wire transfer request to be submitted through our online banking portal for accuracy and completeness before submitting any request to us for processing. You understand and agree that we do not review the contents of a wire transfer request for possible errors.

If we receive your completed outbound wire transfer request by 4:00 PM Eastern Time on a Business Day, we will process your wire transfer request that Business Day. If we receive your completed outbound wire request after

4:00 PM Eastern Time or on a day that is not a Business Day, we generally will not process your wire transfer until the next Business Day.

After we receive a wire transfer request through our online banking portal, we may not be able to process any amendment, change, correction, or cancellation of the wire transfer, even if you subsequently discover that you submitted erroneous numeric information to us or inadvertently submitted to us for processing a duplicate of a wire transfer previously requested through our online banking portal.

If you discover an error in a wire transfer request that has been submitted to us for processing, because it may not be possible to stop processing or payment of that wire transfer, you should immediately ask the beneficiary or financial institution identified in your wire transfer request to (i) agree to reject (refuse to accept) and return the wired funds to us for crediting back to your account, or (if applicable) (ii) agree to allow you to amend (revise or change) certain details in your original wire transfer request. If you discover an error in a wire transfer request that has been submitted to us for processing, we may agree in our discretion to assist you in asking the financial institution identified in your request to agree to return the wired funds to us for crediting back to your account, or (if applicable) to allow you to amend your original wire transfer request. You understand and agree that there is no assurance the beneficiary or financial institution identified in your wire transfer request will agree to cooperate with us or with you. You are solely responsible for contacting the beneficiary identified in your wire transfer request if you discover an error in the information included in your wire transfer request. We are not required to contact the financial institution, or the beneficiary identified in your wire transfer request concerning any error in your requested wire transfer unless we (or an agent or service provider of ours) caused the error (for example, by wiring funds in an amount different from the numerical amount in your wire transfer request, or by mis-transcribing numeric information included in your wire transfer request.)

You also understand and agree that wire transfers you request through our online banking portal are subject to the following requirements:

- You may not specify a desired wire transfer processing, execution, or payment date, or a desired intermediary bank. You may not instruct us to use a wire transfer system other than the Fedwire Funds Service, or to process a requested wire transfer using the most expeditious means or on an expedited basis.
- We will process a wire transfer request we receive through our online banking portal with reasonable promptness (subject to applicable cutoff hours and Federal Reserve Bank holidays) provided that the request includes all required information and otherwise meets our requirements and Fedwire Funds Service requirements. Wire transfer processing may be delayed if (for example) the financial institution you have identified by routing number in your wire transfer request does not hold, is unable to identify, or fails to recognize the beneficiary's deposit account number included in your wire transfer request, or if the beneficiary's deposit account is unable to receive funds transfers for any reason. Your wire transfer request may also be delayed if there is any concern of fraudulent activity related to your wire transfer request.
- You agree to allow sufficient processing time for a wire transfer to a deposit account from your Account to become final. We are not responsible if we receive your wire transfer request after any applicable cutoff time or without sufficient time to cause the funds to be finally settled (paid) to the financial institution holding the beneficiary's deposit account by the date your payment is required to be made to the beneficiary (under applicable terms of your agreement with the beneficiary).
- You agree to regularly log in to our secure online banking portal to review the status of wire transfers you have recently requested through that portal. You agree to notify us immediately if (i) if our secure online portal identifies any wire transfer detail different from the details included in your wire transfer request submitted through our secure online banking portal, or (ii) a wire transfer has or may have been requested from your Account without proper authorization or permission.

- We impose a \$20 wire transfer processing fee for any wire transfer request we receive through our secure online banking portal that we process or attempt to process, regardless of whether the beneficiary or financial institution identified in your wire transfer request rejects (refuses to accept) and returns the wired funds to us for crediting back to your Account. We may deduct this wire transfer processing fee from your Account when we notify you that we are processing your wire transfer request or at a later time, in our discretion. We are not responsible for any processing fees and service charges that are or may be imposed on the beneficiary by its financial institution, or that are or may be imposed by the beneficiary on you (under applicable terms of your agreement with the beneficiary).

## **SECTION 2      GENERAL**

You agree that the losses and damages covered by the “Indemnification” provision in the BCA Agreement include without limitation fees, costs, and other expenses we may be required to pay pursuant to Fedwire Funds Service rules and applicable law in connection with any wire transfers you request that do not comply fully with Fedwire Funds Service rules and applicable law, or that are processed pursuant to and consistent with erroneous information contained in the wire transfer requests received by us for processing through our secure online banking portal.