

# California Bank & Trust “Visa® Business” and “Cash Back for Business Visa®” Credit Card Agreement

Effective date 10/01/2011

This BUSINESS CREDIT CARD AGREEMENT (this “Agreement”) replaces and supersedes any previous Business Credit Card Agreement (and amendments thereto).

**1.0: THIS IS A VARIABLE RATE PRODUCT:** The index (“Index”) used is the Wall Street Journal Prime Rate (“Prime Rate”). The interest rate applied for purchases made with the Visa Business card is the Prime Rate plus a margin of 9%. The interest rate applied for purchases made with the Cash Back for Business Visa card is the Prime Rate plus a margin of 11%. The interest rate applied for cash advances, quasi cash transactions and balance transfers is the Prime Rate plus a margin of 15.99%. The interest rate payable on the card will change effective with changes in the Index.

**2.0: DEFINITIONS:** The following DEFINITIONS apply and will help better understand this document: The word “**Bank**” means California Bank & Trust, except as otherwise specified. The word “**Borrower**” refers to the business entity or organization in whose name the Bank has established the Card Account and issued the Card. The words “**Card Agreement**” refer to this Business Credit Card Agreement together with the Card Application (and all addenda) and the folder containing the Card. The word “**Card**” refers to the one or more credit cards that the Bank has issued pursuant to Borrower’s request for credit, including any renewal or replacement cards. The words “**Card Account**” refer to the Cash Back for Business Visa or the Visa Business credit card account governed by the Card Agreement between the Bank on the one hand and the Borrower and User on the other hand. The words “**Borrowers Credit Limit**” refer to the maximum available dollar amount of credit authorized by the Bank to the Borrower; the words “**User’s Credit Limit**” refer to the portion of the Borrower’s Credit Limit that has been assigned to a particular User. The words “**Borrower’s Outstanding Balance**” refer to the entire amount (i.e. the aggregate amount of all of the User’s Outstanding Balances) owing by Borrower on the Card Account at any given time; User’s Outstanding Balance refers to the entire amount owing on a particular Card that has been designated to a particular User. The word “**User**” refers to the one or more individuals designated by Borrower as authorized to use a Card: the name of each User (along with the Borrower’s name) will appear on the Card Account and on the Card that is assigned to that User. The words “**your**” and “**you**” refer to Borrower. The words “**we**”, “**us**” or “**our**” refer to California Bank & Trust.

**3.0: AGREEMENT:** This Agreement documents the agreement between Borrower and the Bank regarding the Card Account. This Agreement contains important information that Borrower and User should review carefully and keep in their records. This Agreement becomes effective on the earlier of (1) 15 days after the Bank sends the Card, or (2) the first use of the Card or Card Account. Any use of the credit associated with the Card Account constitutes acceptance of the terms of this Agreement. If the Borrower or User does not wish to be bound by this Agreement, they must not use (or authorize anyone else to use) the Card or Card Account and they must cancel the Card Account within 15 days after receiving the Card.

**4.0: BORROWER’S REPRESENTATIONS, WARRANTIES AND COVENANTS:** Effective upon the opening of the Card Account, and continuing until termination of this Agreement and satisfaction of all obligations of Borrower hereunder, the Borrower covenants, represents, and warrants the following:

**4.1: Legal Status:** Borrower, whether it is a corporation, partnership, limited liability company, sole proprietorship, or other type of business entity or organization, is in good standing and duly qualified to do business in each jurisdiction where it conducts its business and has the full power and authority to carry on its business as presently conducted.

**4.2: Authority to Enter into Card Agreement:** Borrower has full power and authority to enter into and perform all obligations under this Agreement, and Borrower has been duly authorized to do so by all necessary organizational action.

**4.3: No Conflict with Other Documents:** Borrower’s entering into and performing all obligations under this Agreement are not inconsistent with any of Borrower’s governing documents, and do not and will not contravene any provision of or constitute a default under any indenture, mortgage, contract, or other instrument to which Borrower is a party or by which Borrower is bound.

**4.4: Accurate Information:** All information that Borrower has provided and will provide at any time in the future is and will be accurate, and the Borrower's Chief Financial Officer or Operating Officer (or other person with equivalent knowledge and responsibility regardless of that person's title) will certify the accuracy of such information on request.

**4.5: Further Assistance:** At the Bank's request, Borrower shall deliver, in a form acceptable to the Bank, any legal documents, financial statements or information. The Borrower shall also promptly notify the Bank of any significant change in its business or other development (for example, an Internal Revenue Service investigation) that has or may have a material adverse effect on Borrower's business.

**4.6: Specially-Designated Nationals (SDN) Screening:** The Bank complies with applicable anti-money laundering laws, including screening customer names against SDN lists administered by the U.S. Treasury's Office of Foreign Assets Control (OFAC). Borrower assumes the responsibility of requesting Cards only for persons that it has verified are not identified on the OFAC SDN list, and Borrower shall hold us harmless in the event we issue Cards Borrower requested to any such identified person.

**5.0: CREDIT LIMIT:** The Bank will assign to each User a User's Credit Limit; the Borrower's Credit Limit will be the aggregate amount of all of the User's Credit Limits combined. The User's Credit Limit will be set forth on each User's monthly statement. The Borrower's Credit Limit and each User's Credit Limit will be set forth on the Borrower's monthly statement. The Card or Card Account shall not be used in any way that would cause a User's Outstanding Balance to exceed that User's Credit Limit. The Bank may increase or decrease the Borrower's Credit Limit or any User's Credit Limit at any time at the Bank's sole discretion. The Bank will give notice of any such change. Borrower may request a change in a User's Credit Limit by writing to the address shown on the monthly statement or by calling 1-866-749-7460 during business hours (8:00 a.m. to 5:00 p.m. (PT), Monday through Friday).

## **6.0: THE CARD:**

**6.1: Signature Panel.** The back of the Card contains a signature panel which must be signed before the Card may be used.

**6.2: Card is Bank's Property.** The Card is the property of the Bank and must be returned to the Bank if the Bank so requests. Also, the Bank can, at any time and without cause and without notice, revoke the right to use the Card, if a merchant or a financial institution asks for the surrender of the Card, it must be surrendered immediately.

**6.3: Expiration.** The Card will not be valid after the expiration date printed on the front of the Card and it must not be used after that date.

**6.4: Renewal and Replacement Cards.** The Bank will continue to issue renewal or replacement Cards until the Bank revokes the right to use the Card or until the Card Account is closed.

**7.0: AVAILABLE TRANSACTIONS:** Subject to the restrictions described herein, the Card and the Card Account may be used in any of the following transactions:

**7.1: Purchases.** Unless otherwise requested by the Borrower, the Card may be used to purchase or lease goods or services wherever the Card is honored.

**7.2: Cash Advances.** At the request of the Borrower, the Card may be used by a User, subject to the corresponding User's Credit Limit, to obtain cash advances or make a quasi cash transaction from your Card Account: (1) in person at the Bank or any participating financial institution; or (2) at any ATM in the Bank's ATM network or any of the other participating ATM networks (the names of which are shown on the back of the Card), subject to the following limitations (certain ATMs may have other limits): the total dollar amount of such ATM cash advances may not exceed \$500 per day for each Card. Each cash advance or quasi cash transaction will create a charge to your Card Account. Based on risk, we reserve the right to limit cash advance access at the sole discretion of the Bank.

**7.2.1:** Use of your Credit Card to withdraw cash from ATM's located outside of the United States creates a cash advance from and charge to your Card Account even if you select withdrawal from checking or savings account or any other type of account.

**7.3: Balance Transfers.** Subject to your available Credit Limit, you can request a balance transfer to your Card Account. You may not use a balance transfer to pay off any other accounts you have with the Bank. You may only make a balance transfer to accounts that list you as an account holder. Allow 4 to 6 weeks to process your balance transfer request, during which time you should continue to make payments to those accounts. You will not earn any rewards points or cash back on a balance transfer.

**7.4: Electronic Online Cash Advances:** At the request of the Borrower and subject to your available Credit Limit, the Card may be used to obtain electronic online cash advances from your Card Account. Based on risk, we reserve the right to limit electronic online cash advance access at the sole discretion of the Bank. Each electronic online cash advance will be treated as a cash advance subject to a Cash Advance Transaction Fee charged to your Card Account.

**7.5: Internet Gambling Notice:** Restricted transactions as defined in Federal Reserve Regulation GG are prohibited from being processed through this account or relationship. Restricted transactions generally include, but are not limited to, those in which credit, electronic fund transfers, checks, or drafts are knowingly accepted by gambling businesses in connection with the participation by others in unlawful Internet gambling. We have elected to not offer accounts to organizations that offer or sponsor Internet gambling. Commercial accounts receiving or processing Internet gambling transactions are subject to closure.

**8.0: MONTHLY STATEMENTS:** At Borrower's request, the Bank will send to Borrower a monthly statement summarizing each User's transactions during the preceding billing period. The monthly statement will show the total amount owed on each User's Card as of the end of the billing period, including any interest charges, fees, the minimum payment due date (which is 20 days from the monthly statement closing date).

**9.0: HOW THE NEW BALANCE IS DETERMINED:** The total amount owed to the Bank as a result of each User's transactions at the end of the current billing period appears as the "New Balance" on each User's monthly statement. The User's Outstanding Balance at the end of the previous billing period is called the "Previous Balance." The New Balance is determined by taking the Previous Balance and (1) subtracting any payments and credits received by the Bank during the current billing period and then (2) adding any purchases, cash advances, interest charges, fees, and other adjustments.

**10.0: ANNUAL PERCENTAGE RATE (APR):**

**10.1: Prime Rate:** The interest rate on your account is subject to change from time to time based on changes in an independent index which is the Prime Rate as published in the *Wall Street Journal (the "Index")*, if a range of rates has been published, the higher of the rates will be used. Information about the Index is available or published daily in the *Wall Street Journal*. You acknowledge that the Prime Rate as used herein does not mean the lowest rate at which the Bank has made or may make loans to any of its customers, either now or in the future. If the Index becomes unavailable the Bank may designate a substitute Index after providing notice to you.

**10.2: Daily Periodic Rate (DPR) and APR for Purchases.** The DPR will be 1/365 (1/366 for a leap year) of the then current APR. The APR, which is calculated on the average daily balance, is a variable rate. The APR in effect throughout a particular billing period for Visa Business will be **9.00%** plus the PRIME RATE or for Cash Back for Business Visa will be **11.00%** plus the PRIME RATE in effect on the day that precedes by six (6) business days the first calendar day of the calendar month in which that billing period ends. The APR and DPR in effect for each billing period are disclosed on the corresponding monthly statement.

**10.3: APR for Cash Advances, Quasi Cash Transactions and Balance Transfers:** The APR in effect throughout a particular billing period for cash advances, quasi cash transactions and balance transfers will be 15.99% plus the Prime Rate.

**10.4: Effect of Change in Rate.** All other factors being equal, and subject to the method by which the minimum payment is calculated (as described above), an increase in the APR will increase the minimum payment, and a decrease in the APR will decrease the minimum payment.

**The Index for the following is 3.25% as of 10/01/2011:**

**10.5: DPR for Purchases:** The DPR for transactions posting as Purchases is calculated based on the corresponding APR. To determine your rate for Purchases, we add the Index to **9.00%** resulting in a DPR of 0.033562 (corresponding APR of 12.25% for Visa Business) or **11.00%** resulting in a DPR of 0.039041 (corresponding APR of 14.25% for Cash Back for Business Visa).

**10.6: DPR for Cash Advances, Quasi Cash Transactions and Balance Transfers:** The DPR for transactions posting as a cash advance, quasi cash transaction or balance transfer is calculated based on the corresponding APR. To determine the rate, we add the Index to 15.99% resulting in a DPR of 0.052712 (corresponding APR of 19.24%).

**11.0: INTEREST CHARGES:** The following interest charges will apply whether before or after default, judgment, or the closing of the Card Account.

**11.1: Periodic Interest Charges on Purchases.** A periodic interest charge on purchases will be assessed if the total New Balance listed on the previous billing statement was not paid in full by the payment due date; otherwise, a periodic interest charge will be assessed on each purchase from the date of the purchase transaction.

**11.2: Periodic Interest Charges on Cash Advances, Quasi Cash Transactions and Balance Transfers.** A periodic interest charge will be assessed on each cash advance, quasi cash transaction or balance transfer from the date of such transaction; there is no grace period within which such a transaction can be repaid without incurring a interest charge.

**11.3: Periodic Interest Charge Calculation(s).** The total amount of interest charge for a billing period will be calculated as follows (interest charges on purchases and interest charges on cash advances are calculated separately and then the resulting amounts combined to arrive at the total interest charges for the billing period): (1) We first determine the "average daily balance" of the account (including new transactions). To get the "average daily balance" we take the beginning balance of the account each day, add any new purchases (or advances) and then subtract any payments or credits. This gives us the daily balance (any unpaid interest charges incurred during that billing period are not included in the daily balance). Then, we add up all the daily balances for the billing period and divide the total by the number of days in the billing period. This gives us the average daily balance, which is also called the "balance subject to interest charge" on the monthly statement; (2) We multiply the balance subject to interest charge by the number of days in the billing period; the resulting number is then multiplied by the daily periodic rate to determine the amount of interest charge.

**11.4: Minimum Interest Charge.** Notwithstanding the above, the minimum **INTEREST CHARGE** will be \$1.

**12.0: CASH ADVANCE TRANSACTION FEE:** Each new cash advance will be assessed a one-time transaction fee equal to 3% multiplied by the amount of the cash advance but never less than \$5. The transaction fee shall be fully earned when assessed.

**13.0: PAYMENTS:** You promise to pay the Bank according to the terms of this Agreement the entire amount owing hereunder. You agree to make all payments in U.S. Dollars drawn on funds on deposit in the United States (however, the Bank may at its option choose to accept payments made in foreign currency or made by drawing on funds on deposit outside the United States, in which case you agree to pay all conversion fees and bank collection fees incurred by the Bank, which amounts will be treated as purchase items). Do not send cash payments.

**13.1: Acceptance of Partial or Nonconforming Payments.** The Bank may accept late payments, partial payments or any payment marked with any kind of restrictive endorsement (such as "paid in full" or "in settlement") without giving effect to the restrictive endorsement and without losing, waiving, or impairing any of the Bank's rights under this Agreement or under applicable law.

**13.2: Delay of Available Credit:** We credit payments to your account on the day we receive them however, we reserve the right, based on risk, to delay the available credit resulting from those payments.

**13.3: Prepayment.** You may prepay all or any portion of the Outstanding Balance at any time without penalty.

**13.4: Making Only the Minimum Payment.** Making only the minimum payment will increase the repayment period and the amount of interest paid over time.

**13.5: Amount of Minimum Payment.** If the New Balance is less than \$30, the minimum payment is the full amount of the New Balance. If the New Balance is \$30 or more, the minimum payment is the total of two figures: the first is any past due amount; the second is the sum of (1) the greater of \$30, or the combined total of all interest charges, late fees and overlimit fee, plus (2) 2.5% of the New Balance. You shall make (and the Bank shall have received at the address designated on your monthly statement) on or before the due date the minimum payment shown on your monthly statement (or, at your option, any greater amount up to the Outstanding Balance). Receipt of your minimum payment at any address other than that designated on your monthly statement may create a delay in posting the minimum payment to your Card Account and may thereby result in a late fee and additional interest charges.

**13.6: Application of Payments:**

**13.6.1:** Payments will be applied first to New Balance interest charges, and then late fees, overlimit fees, cash advance transaction fees, balance transfer fees and then the remaining portion of the New Balance.

**13.6.2:** Payment for more than the minimum payment amount (but not more than the Outstanding Balance) will be accepted as a single payment for that billing period, the amount in excess of the minimum payment will not be applied toward future payments due.

**14.0: OTHER FEES, CHARGES AND PROVISIONS:**

**14.1: Balance Transfer Fee:** Each new Balance Transfer will be assessed a fee equal to 2% of the Balance Transfer, but not less than \$5 or more than \$50.

**14.2: Late Payment.** If the minimum payment shown on the monthly statement is not received at the proper address on or before the payment due date, there will be a late fee of \$10.

**14.3: Returned Payment.** If any check or other payment on the Card Account is dishonored or must be returned because it cannot be processed, there will be a returned payment charge of \$25 (which will be treated as a purchase item).

**14.4: Overlimit Fee.** An overlimit fee of \$10 will be charged and added to and included in the New Balance for the billing period during which the User's Credit Limit was exceeded.

**14.5: Annual Membership Fee.**

**Cash Back for Business Visa** The annual membership fee is assessed on a per User basis. If a User uses that User's designated Card to make a minimum of \$2,500 in purchases per year, there will be no annual membership fee for that User; otherwise, the annual membership fee is \$50. The annual membership fee, if applicable, will be added to and included in the New Balance (as a purchase).

**Business:** The annual membership fee is assessed on a per User basis. If a User uses that User's designated Card to make a minimum of \$2,500 in purchases per year, there will be no annual membership fee for that User; otherwise, the annual membership fee is \$30. The annual membership fee, if applicable, will be added to and included in the New Balance (as a purchase). **AmazIng™ Rewards** is an optional program that is not available on all credit card types. Availability is at the discretion of the Bank. There is a \$25 annual membership fee to participate in the AmazIng™ Rewards program. The annual membership fee will be added to and included in the New Balance (as a purchase) every year that you are enrolled in the program.

**14.6: International Transaction Fee.** 3% of the U.S. dollar amount of the transaction, whether originally made in U.S. dollars or converted from a foreign currency. If a charge is incurred in a foreign currency, the charge will be converted into a U.S. Dollar amount by Visa International depending on the Card Account. Currently, the currency conversion rate used is either a wholesale market rate or a government mandated rate in effect one day prior to the date the transaction is processed by Visa International plus three percent (3%) of the U.S. dollar rate. The currency conversion rate in effect on the processing date may differ from the rate in effect on the transaction date or the posting date.

**14.7: Research.** For research requested by Borrower or User on the Card Account (unless such research discloses a billing error made by the Bank), there will be a minimum research charge of \$30 per hour, plus \$5 per photocopy (which amounts will be treated as purchase items).

**14.8: Expedited Card Delivery or Emergency Card Fee.** If you request the Bank to provide "expedited card delivery" (which requires the services of an outside delivery service provider) or you request to personally obtain an "emergency card" (which requires special card production) at our Bankcard Center, you agree that we may charge a fee up to \$75 for this service.

#### **15.0: RESTRICTIONS ON USE OF CARD ACCOUNT:**

**15.1: Who May Use.** Only the Borrower and User may use the Card and the Card Account.

**15.2: Business Use.** Borrower and User agree that the Card and the Card Account shall be used for business purposes and NOT for personal, family, or household purposes.

**15.3: Within Credit Limit.** Each use of a Card, Card Account by a User is subject to the unused amount of available credit on that particular User's Credit Limit.

**15.4: No Illegal Purpose.** The Card or Card Account shall not be used for any illegal purpose.

#### **16.0: LIABILITY FOR OBLIGATIONS:**

**16.1: Borrower's Liability.** Borrower and each Guarantor shall be liable for the full amounts of Borrower's Outstanding Balance regardless of the purpose whether for business purposes or for personal, family, or household purposes of any of the charges made with the Cards. Borrower's liability shall also include all charges regardless of the purpose made by any person to whom Borrower or User has given express or implied permission to use the Card, Card Account or has voluntarily provided the Card or the Card number. **Prior to exercising your dispute rights with the bank, you must make an attempt to resolve the issue with the merchant. This must be stated in writing. Within your dispute please include all applicable dates of when you contacted the merchant and the contact's name.**

**16.2: User's Liability.** In addition to and not in lieu of Borrower's liability as set forth above, each User shall be jointly, and severally liable with Borrower for all amounts resulting from: (a) all charges made by User for personal, family, or household purposes; and (b) all charges made by any person to whom that User has given express or implied permission to use the Card or Card Account or has voluntarily provided the Card or the Card number, regardless of the purpose of any such charge.

**17.0: LIABILITY FOR UNAUTHORIZED USE:** If your Card or Card Account number is lost or stolen, or if you think that someone used or may use them without permission, you agree to notify the Bank immediately by calling 1-866-749-7460. You may need to provide the Bank with certain information in writing to help the Bank determine what happened. You are not liable for loss, theft, or unauthorized use of your Card or Card Account if you notify the Bank of any fraudulent transactions.

**17.1: Liability for Unauthorized ATM Transactions:** You are not liable for unauthorized use of your card for ATM transactions if you notify the Bank within two business days. In any case, your liability will not exceed \$50.

**18.0: DISCLOSURES OF INFORMATION:** You acknowledge and consent to the release of personal data about Cardholders by the Bank to VISA U.S.A., its Members, or their respective contractors for the purpose of providing emergency cash and emergency card replacement services.

**19.0: REFUSAL OF THE CARD:** The Bank will not be responsible or liable in any manner for any of the following or for any claim of whatever nature (including without limitation any claim for incidental or consequential damages) arising from or related to any of the following: the refusal or delay of any other financial institution, any merchant, or any person to honor the Card, the Card Account; any goods or services obtained with the Card and charged to the Card Account; any unsuccessful attempt to obtain prior credit authorization for any transaction when the authorization system is not working; or any unsuccessful attempt to use the Card in an ATM when the ATM or ATM network is not working or is temporarily closed or out of order.

**20.0: FINANCIAL AND CREDIT INFORMATION:**

**20.1: Financial Statements:** The Bank may need updated financial information from Borrower at some time in the future. If the Bank asks, Borrower agrees to furnish a current financial statement or to update the Card Application.

**20.2: Credit Reports.** Borrower hereby authorizes the Bank to make whatever credit inquiries or investigations about Borrower that the Bank deems appropriate and to disclose to others credit information about the Card Account and Borrower's performance under this Agreement. The Bank may ask credit bureaus for reports of Borrower's credit history: at Borrower's request, the Bank will tell Borrower whether or not the Bank has requested such reports and will tell Borrower the names and addresses of the credit bureaus furnishing the reports. Borrower is hereby notified that a negative credit report reflecting on Borrower's credit record may be submitted to a credit reporting agency if Borrower fails to fulfill the terms of this Agreement.

**21.0: CHANGE OF NAME OR ADDRESS:** Borrower agrees to promptly notify the Bank in writing of any change in name or mailing address.

**22.0: CLOSING THE CARD ACCOUNT:** Borrower may close the Card Account at any time by notifying the Bank in writing. The Bank may close the Card Account at any time without cause and without notice. When the Card Account is closed (whether by Borrower or by the Bank), the right to use the Card and to make charges to the Card Account will be automatically revoked.

**23.0: DEFAULT:** The Borrower will be in default if: (1) Borrower fails to make the minimum payment to the proper address on or before the due date or fails to meet any of its other obligations under this Agreement; (2) any of Borrower's representations and warranties prove to be false or incorrect in any material respect when made or at any time during the term of this Agreement; (3) Borrower suspends the normal operation of its business; (4) Borrower files for bankruptcy; (5) Borrower becomes insolvent and generally unable to pay its debts; or (6) Borrower defaults under any other obligations that Borrower owes to the Bank or its affiliates. Upon a default, the Bank may, without notice, declare the Borrower's outstanding Balance immediately due and payable and may close the Card from Borrower and all Users.

**24.0: SECURITY INTEREST:** Borrower grants Bank a Uniform Commercial Code security interest in any deposits or accounts Borrower maintains with Bank or any Bank Affiliate to secure payments initiated with the Card(s) and any current or future indebtedness to Bank or any Bank Affiliate whether under this Agreement or any other indebtedness to Bank or any Bank Affiliate.

**25.0: LEGAL ACTION AND COSTS:** Without waiving the Dispute Resolution provisions of this Agreement, the Bank may take legal action (including collection action) against Borrower/Guarantor and Borrower/Guarantor agrees to pay all collection costs whether or not awardable as court costs (including the cost of Bank staff) and reasonable attorney's fees (including those of salaried Bank employees). If the Bank sues to collect and Borrower wins the lawsuit, the Bank will pay Borrower's court costs and reasonable attorney's fees. Also, Borrower agrees that regardless of where it is located or does business, the Bank may initiate legal action against Borrower in the courts of the state of California in the county in which the Borrower operates and Borrower hereby submits itself to jurisdiction of the courts therein.

**26.0: INTERPRETATION; EFFECT, CHANGES TO THIS AGREEMENT:**

**26.1: Duration.** Except for the right to use the Card and to make charges to the Card Account (which right expires when the Card Account is closed); all other provisions of this Agreement shall remain in full force and effect until the Card Account is closed and Borrower's Outstanding Balance is paid in full.

**26.2: Headings.** The headings used in this Agreement are for convenience only and shall have no bearing on the interpretation of this Agreement.

**26.3: Governing Law.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE UNITED STATES AND OF THE STATE OF CALIFORNIA, REGARDLESS OF WHERE BORROWER IS LOCATED OR USES THE CARD OR THE CARD ACCOUNT AT ANY TIME.

**26.4: Monetary Figures:** All monetary figures on the Card Account and in this Agreement are and shall be denominated in United States Dollars.

**26.5: Changing This Agreement.** Borrower agrees that the Bank may change the terms of this Agreement, including without limitation any term pertaining to the interest charges, at any time upon written notice to Borrower. Except for changes to the Credit Limit, the Bank will notify Borrower of any such change at least 45 days in advance. If Borrower does not agree to the change Borrower must notify the Bank in writing within 25 days after the effective date of the change, and the Bank may close the Card Account and may elect to have Borrower pay the Borrower's Outstanding Balance on or before the payment due date. Otherwise, Borrower shall be deemed to have agreed to the change in the Bank's notice. Use of the Card after the effective date of the change shall be deemed to be Borrower's acceptance of the new terms.

**26.6: Integrated Agreement.** Borrower agrees that this Agreement is a final written expression of the agreement between Borrower and the Bank and that this Agreement may not be contradicted by evidence of any alleged oral agreement.

**26.7: Severability.** The provisions of this Agreement are severable to the extent that any provision hereof held to be prohibited or unenforceable in any jurisdiction shall not invalidate the remainder of this Agreement in that jurisdiction and shall be fully enforceable in any other jurisdiction not expressly prohibiting such provision.

**26.8: Delay in Enforcement.** The Bank may exercise its rights under this Agreement immediately, or, at the Bank's sole discretion, may decline to enforce or delay in enforcing any such rights without losing, waiving, or impairing them. Borrower may not sell, assign, or transfer this Agreement or the Card Account or any portion thereof without the express prior written consent of the Bank. The Bank may sell, assign, or transfer this Agreement or the Card Account or any portion thereof without notice to Borrower. Subject to the foregoing, this Agreement shall be binding upon the heirs, representatives, successors, and assigns of the parties hereto.

**27.0: DISPUTE RESOLUTION PROVISION. This Dispute Resolution Provision contains a jury waiver, a class action waiver and a judicial reference agreement. READ IT CAREFULLY.**

**27.1: GENERAL PROVISIONS GOVERNING ALL DISPUTES.**

**27.1.1: PRIOR DISPUTE RESOLUTION AGREEMENTS SUPERSEDED. This Dispute Resolution Provision shall supersede and replace any prior "Jury Waiver," "Judicial Reference," "Class Action Waiver," "Arbitration," "Dispute Resolution," or similar alternative dispute agreement or provision between or among the parties relating to this Agreement or the subject matter hereof.**

**27.1.2: "DISPUTE" DEFINED.** As used herein, the word "Dispute" includes, without limitation, any claim by either party against the other party related to this Agreement, your Card or Account. **Disputes include without limitation class action claims brought by either party as a class representative on behalf of others and claims by a class representative on either party's behalf as a class member and any action, suit, case or claim brought by either party as a private attorney general, the right to which each of the parties hereto also expressly waives, whether litigated in court or a reference proceeding, to the extent permitted by applicable law.** Disputes also include without limitation matters involving the validity, enforceability, meaning or scope of this jury waiver and judicial reference provision and disputes based on or arising from an alleged tort or matters involving the employees, officers, agents, affiliates or assigns of a party hereto.

If a third party is a party to a Dispute (such as a credit reporting agency, merchant accepting a credit card, junior lienholder or title company), each party hereto agrees to consent to including that third party in any arbitration or judicial reference proceeding for resolving the Dispute with that party.

**27.1.3: JURY TRIAL WAIVER.** Each party **waives its respective rights to a trial before a jury in connection with any Dispute**, and all Disputes shall be resolved by a judge sitting without a jury, unless resolved in a judicial reference proceeding pursuant to Section 27.1.5.

**27.1.4: SURVIVAL.** This Dispute Resolution Provision shall survive any termination, amendment or expiration of this Agreement or of any other relationship between the parties.

**27.1.5: JUDICIAL REFERENCE IF JURY WAIVER UNENFORCEABLE.** To the extent a jury waiver or class action waiver is not permitted by applicable law and a Dispute arises between the parties hereto, then any party hereto may require that Dispute be resolved by judicial reference in accordance with California Code of Civil Procedure, Sections 638, et seq., including without limitation whether the Dispute is subject to a judicial reference proceeding. **By agreeing to resolve Disputes by judicial reference, each party is giving up any right that party may have to a jury trial.** The referee shall be a retired judge, agreed upon by the parties, from either the American Arbitration Association (AAA) or Judicial Arbitration and Mediation Service, Inc. (JAMS). If the parties cannot agree on the referee, the party who initially selected the reference procedure shall request a panel of ten retired judges from either AAA or JAMS, and the court shall select the referee from that panel. (If AAA and JAMS are unavailable to provide this service, the court may select a referee by such other procedures as are used by that court.) The referee shall be appointed to sit with all of the powers provided by law, including the power to hear and determine any or all of the issues in the proceeding, whether of fact or of law, and to report a statement of decision. The parties agree that time is of the essence in conducting the judicial reference proceeding set forth herein. The costs of the judicial reference proceeding, including the fee for the court reporter, shall be borne equally by the parties as the costs are incurred, unless otherwise awarded by the referee. The referee shall hear all pre-trial and post-trial matters (including without limitation requests for equitable relief), prepare a statement of decision with written findings of fact and conclusions of law, and apportion costs as appropriate. The referee shall be empowered to enter equitable relief as well as legal relief, provide all temporary or provisional remedies, enter equitable orders that are binding on the parties and rule on any motion that would be authorized in a trial, including without limitation motions for summary adjudication. This provision will not be deemed to limit or constrain Bank's right of offset, to obtain provisional or ancillary remedies, to interplead funds in the event of a dispute, to exercise any security interest or lien Bank may hold in property or to comply with legal process involving accounts or other property held by Bank.

**27.1.6: RELIANCE.** Each party (i) certifies that no one has represented to such party that the other party would not seek to enforce a jury waiver, class action waiver, arbitration provision or judicial reference provision in the event of suit, and (ii) acknowledges that it and the other party have been induced to enter into this Agreement by, among other things, material reliance upon the mutual waivers, agreements and certifications in this Dispute Resolution Provision.

## **28.0: CASH BACK FOR BUSINESS ("Cash Back Rebate") TERMS AND CONDITIONS:**

The following Cash Back Rebate program is available only with the Cash Back for Business Visa credit card. The Bank reserves the right to amend, cancel or change the following Cash Back Rebate program at any time with or without notice as permitted by law. Cash Back for Business Visa credit cards cannot be enrolled in the AmaZing Rewards™ program

**28.1: Cash Back Rebate Program:** From the date User's Account is opened (or the first day of the billing cycle following enrollment in the Cash Back Rebate program, whichever is later) until User's Account is closed and/or enrollment in the Cash Back Rebate program is cancelled, User will accrue a 1% Rebate for each dollar of qualifying net purchases charged to User's Account during each billing cycle that the Account is open, current, and no payment is past due. Transactions excluded from receiving Rebates include (but are not limited to), cash advances, balance transfers, ATM transactions, unauthorized charges, fraudulent charges, fees, interest charges, foreign cash transactions, casino gaming and betting transactions and lottery tickets.

To participate in the Cash Back Rebate program, Borrower must own a business checking account with the Bank, with the same Company name as the credit card. Each time User's total accrued Rebate for qualified purchases reaches a \$100 threshold Borrower's business checking account will be credited in increments of \$100. No Rebate will be awarded, however, if: (1) Borrower's business checking account is not in good standing or is closed during enrollment; or (2) for any billing cycle User's credit card account is closed, not in good standing or not current on the closing date for that billing period. There is no earnings cap on the amount of cash back. Accrued Rebates not paid will expire five years after the statement closing date of the billing cycle in which they accrued. You are solely responsible for any taxes related to or arising out of your participation in this program. Rebates will be treated as a bank credit to

Borrower's business checking account, but will not qualify as a payment or as a payment towards the required minimum monthly payment on User's credit card account.

We may reverse a Rebate by debiting Borrower's accrued Rebate or business checking account for returned merchandise or for any unauthorized purchase. We reserve the right to reverse a Rebate and/or cancel benefits if we reasonably believe that a purchase was returned, or was not a bona fide purchase of goods or services delivered or performed by a merchant.

**28.2: Enhanced Rebate for Selected Charges.** Cash Back Rebates are increased from the standard 1% Rebate to a 2% Enhanced Rebate for select categories of goods and services charged to User's Account. Purchases eligible for the 2% Enhanced Rate are those submitted by a U.S. merchant using the following bonus Merchant Category Code(s) ("MCC code"): MCC code 4814 for wireless telephone services; MCC code 4812 for telecommunication services and equipment; MCC code 4816 for computer network services; MCC code 5943 for office supplies; and, MCC codes 5960 and 6300 for insurance products. (Bank may add or delete bonus MCC codes at any time in its discretion without notice.) If, during any 12 consecutive billing cycles, your cumulative qualifying net purchases in the 2% bonus MCC codes is greater than 20% of your cumulative qualifying net purchases in your Account, we reserve the right to cancel the 2% Enhanced Rebate and pay only the standard 1% Rebate on all purchases regardless of MCC code. After 12 months, we may in our discretion agree to a request to reinstate the 2% Enhanced Rebates for your Account. Purchases at "departments" of superstores, warehouse clubs, supermarkets, drug stores, convenience stores and MCC codes not listed above will earn only the standard 1% Rebate.

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Member FDIC,